

Achieving Environmental Justice in North Carolina Public Participation Policies

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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

and facilities that are local, convenient, and accessible to the disabled, low-income and minority communities, and Indian tribes; and assistance to hearing-impaired or sight-impaired individuals. Several steps in public participation under NEPA are described in details in Appendix I.

Mechanisms to Enhance Public Participation

However, the procedures for public participation in NEPA actions and decision-making processes have not always been successful either in informing or gaining participation by minority communities and low-income communities. To overcome challenges of meaningful public participation, several suggestions have been made in EPA's 1998 Guidance.

First, in order to establish trust with all types of stakeholders, interaction with the affected community should encourage active community participation, recognize community knowledge, and utilize cross-cultural formats and exchanges.

Also, the Agency should do their best to identify stakeholders in the affected community and include all the potential stakeholders in their outreach efforts. The potential stakeholders are listed in table 2 of Appendix I. Other sources of advice are ethnic and cultural-based environmental justice networks (*e.g.*, Indigenous Environmental Network, Southwest Network for Environmental and Economic Justice, Southern Organizing Committee). The *People of Color Environmental Groups Directory* can be a valuable major source of information on such local groups and individuals. Also, Historically Black Colleges and Universities, Tribal Colleges and Universities or other higher education institutions located in areas with or serving predominantly minority or low-income areas, may be able to assist in designing (and participating in) public participation strategies.

Then, once community leaders and stakeholders have been identified and a dialogue established, a mailing list should be assembled so that information can be sent to this group, as well as formal announcements of a public meeting. Another mechanism for providing information to the public is the establishment of information repositories which are accessible to members of the affected community, for example, libraries, churches, community centers, etc. Technical documents should contain a summary written to the lay public and translated, if necessary, into the dominant language of the affected community.

Additional mechanisms for enhancing participation in the NEPA process include: 1) allow public review of Records of Decision (RODs); 2) government-to-government consultation with tribal governments, including formal requests for Indian Tribes to seek participation as cooperating agencies; 3) Community Advisory Boards for the development of NEPA documents; 4) community consultants; and 5) technical assistance to affected communities to enhance understanding of proposed action, technical documents, and full range of potential alternatives and mitigation measures.

EPA also identified a number of particular communications challenges and possible approaches to overcoming these challenges in addressing environmental justice issues. The challenges include: language/communication barrier, distance to meeting or inconvenient access (*e.g.*, rural or cross-town), unfamiliar surroundings (government

buildings, luxury hotel, etc.), outside normal EPA communications loops (i.e., *Federal Register*, newspapers), and format of meetings. As for the possible approaches to overcome, please see Table 3 in Appendix I for details.

II-5. National Environmental Justice Advisory Council (NEJAC)'s "The Model Plan for Public Participation" (02/2000)

The National Environmental Justice Advisory Council (NEJAC) considers public participation crucial in ensuring that decisions affecting human health and the environment embrace environmental justice. To facilitate such public participation, the NEJAC requested its Public Participation and Accountability Subcommittee to develop recommendations for methods by which EPA can institutionalize public participation in its environmental programs.

NEJAC suggests four critical elements (preparation, participation, logistics and mechanics) for conducting public participation. Preparation includes developing co-sponsoring and co-planning relationships with community organizations, educating the community, etc. As for participation, many communities and key stakeholders are suggested. In logistics, NEJAC suggests that the meetings should be accessible to all who wish to attend, must be held in an adequate facility. The meeting time of day and year should accommodate the needs of affected communities. A two-day meeting with an atmosphere of equal participation must be created, and the community and the government should share leadership and presentation assignments. For more details, please see table 4 of Appendix I.

NEJAC also developed 14 items of "Core Values and Guiding Principles for the Practice of Public Participation": Please see table 5 of Appendix I for details.

II-6. Memo EPA's Commitment to Environmental Justice (8/9/2001), and EPA's Environmental Justice Strategic Plan (6/2005)

Introduction

In her memo of 2001, Administrator Whitman outlined the Agency's commitment to EJ and its integration into all programs, policies, and activities. The Agency defines environmental justice as "the fair treatment of people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws and policies, and their meaningful involvement in the decision-making processes of the government. Among other things, this requires ensuring greater *public participation* in the Agency's development and implementation of environmental regulations and policies."

The Environmental Justice Strategic Plan is designed to integrate environmental

justice more fully into the EPA's programs and operations, including its existing five-year planning and budgeting processes. The Agency focuses attention on minority and low-income communities that are disproportionately and adversely affected by environmental and human health risks, in accordance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations). Two draft documents EPA released in June, 2005 -- the "Framework for Integrating Environmental Justice" and "Environmental Justice Strategic Plan Outline"—are meant to form the basis for the environmental justice strategic plan for 2006-2011.

The draft of the “Framework for Integrating Environmental Justice” describes how the EPA's Environmental Justice Program will coordinate, develop and enhance the integration of environmental justice within EPA through the Agency's Strategic Plan for FY2006-2011. This framework identifies the Plan's proposed key elements that will help the Agency benchmark its national environmental justice objectives and track progress. In other words, the new EJ Strategic Plan will be based on this framework. This draft Framework also links the Environmental Justice Action Plans of the Agency's ten regional offices and headquarters program offices (e.g., Office of Air and Radiation, Office of Solid Waste and Emergency Response), the National Environmental Justice Priorities, and the targets established in the EJ Strategic Plan.

The draft of “Environmental Justice Strategic Plan Outline” identifies the "mission" and "vision", describes the integration of environmental justice priorities and strategic targets into the Environmental Justice Program, and links this long-term approach to the Agency's budget and performance.

The EJ Strategic Plan will also likely identify five to seven national priorities, but each regional office will continue to maintain locally tailored priorities and undertake additional actions to address local environmental justice concerns. The development of National Environmental Justice Priorities is intended to create an Agency-wide focus on issues, such as reduction of asthma attacks, that have relevance nationwide and which environmental justice advocates and others have identified as critical environmental justice issues.

Moreover, EPA's recently released draft strategic plan on environmental justice proposes to drop race as a factor in identifying and prioritizing populations that may be disproportionately affected by pollution or the agency's policies, asserting that all communities should be treated equally regardless of their race or socioeconomic status. EPA's new plans contravene a Clinton-era executive order and bar spending on any efforts to implement the order. It raises concern that the draft plan is too tilted toward crafting national environmental justice priorities without sufficient regard to the needs of specific communities, and ignores historical disproportionate impacts on those communities.

Public Participation – Stakeholder Input

There is no specific mention of public participation in either Framework or Outline. But it is said that “development of the Agency's EJ Strategic Plan will require early and

periodic input from the Agency's environmental justice stakeholders (community-based groups, business and industry, academic and educational institutions, state and local governments, tribal governments, indigenous organizations, and non-governmental and environmental groups)." As is currently the practice for the development of the Agency's Strategic Plan, discussions will occur with the states and tribes, as co-regulators. Input will be sought from the EJ stakeholders once a "Working Draft" is developed, so as to give them a substantive document to review. On June 22, 2005, the Office of Environmental Justice issued a notice in the Federal Register (70 FR 36167) seeking comments on the draft Framework and Strategic Plan Outline through July 15, 2005. Based on requests for more time to comment, the public comment period was reopened until August 15, 2005.

II-7. Region 4 Action Plan to Integrate Environmental Justice

Introduction

Since fiscal year 2003, each Headquarters and Regional Office of EPA has to develop implementation plans to transform the Administrator's words into action, with measurable results, called "Action Plans to Integrate Environmental Justice".

The *Region 4 Action Plan to Integrate Environmental Justice*¹⁷¹ was developed by the Environmental Justice and Community Liaison (EJ/CL) Staff Office, under the direction of the Regional Administrator's Office, and in conjunction with regional division and program offices, to outline specific goals, strategies, and activities for staff to use as a guideline when incorporating and implementing environmental justice activities in their respective areas. The key elements of the Action Plan are: management accountability, internal/external stakeholder involvement, data collection/management, training, environmental justice assessment, and evaluation. The Plan offers some flexibility for each office, yet also provides a consistent and holistic approach to environmental justice integration.

Public Participation in Region 4 Action Plan

Meaningful involvement of low-income and minority constituents in the Agency's decision making processes is a key principle of Region 4's EJ program, and "Enhance Public Participation and Access to Information" is one of the goals. Under this goal, there are three strategies and associated activities: (1) Enhance public participation. (2) Educate internal and external stakeholders on EJ. (3) Manage the EJ Small Grants process. Please see table 6 In Appendix I for details.

Besides the strategies and their associated activities, there suggest a number of other ways to pursue this goal in the action plan: Program Specific Public Involvement Activities; EJ listening sessions; Direct contact; Site visits; Hotline numbers and web pages; EJ newsletter; Conference and workshops; EJ Small Grants Program; EJ Tracking Inquiry Program; external stakeholder (including EJ communities, state and local

governments, academic institutions, and industries) engagement; outreach to non-English speaking stakeholders; professional and organizational development.

II-8. NC Department of Environment and Natural Resources (DENR)'s Environmental Equity Initiative (EEI) (10/19/2000)^[8]

Introduction

In its 2000 Environmental Equity Initiative, the NC Department of Environment and Natural Resources (DENR) claims its “Environmental Equity Policy” attempts to create opportunities for successful and productive communication between the agency, local community, and neighboring industries. Providing all citizens the opportunity for meaningful input into decision-making processes is critical to effective government.

Public Participation

Two of DENR's Goals for Environmental Equity related with public participation are **to provide information for citizens and neighborhood groups to allow meaningful participation in regulatory processes, and to provide a link for communication and information between the community, industries and the government.**

To meet the goals, DENR claims that it will:

- Inform potentially affected and protected communities about the Environmental Equity Initiative which seeks first to fully understand environmental issues as raised by the community, staff, industry, or other interested parties, and then attempts to address them in an environmentally sensitive manner that is consistent with sustainable economic development.
- Address environmental equity issues in permitting decisions for projects potentially having a disparate impact on communities protected by Title VI of the Civil Rights Act of 1964.
- Promote greater use and analysis of demographic information to identify communities that may be disproportionately impacted by sources of pollution
- Use demographic information to determine whether there is: 1) a need for greater outreach to community in order to encourage more meaningful participation, or 2) special health risks based on the nature of the population.
- Develop guidelines for assessing the cumulative effects of permitted facilities.
- Provide opportunities for interested parties to raise concerns on Environmental Equity in DENR's decisions.
- Develop a process for intervention or mediation specific for each instance with a focus on mutually acceptable solutions.

- Resolve environmental equity complaints, consistent with the protection afforded by Title VI of the Civil Rights Act of 1964.
- Develop a full record of environmental equity issues.

Clean Water for North Carolina (CWFNC) met with Ms. Mary Penny Thompson, then the EJ Coordinator of NC DENR, on July 1st, 2005. NC DENR is currently reviewing EPA's environmental justice guidelines and trying to tie them with its EEI. She acknowledged that there is no demographic information or result generated to help determine whether there is a need for greater outreach to community in order to encourage more meaningful participation, or special health risks based on the nature of the population (which is mentioned in EEI). There is no agency record being maintained of environmental equity issues, either, or mechanism for reporting them to the agency, or resolving them. Ms. Thompson proposed an "informal" process that would bring community, permitted facility and the agency into a stakeholder process. Clean Water for NC expressed concern that such a mechanism would not answer to DENR's own goals, and would simply take more time from communities who in many cases had been making informal efforts to get resolution through agency enforcement, stronger permits or direct contacts with the facility causing the problem. NC DENR still has lots of work to do to even begin to implement environmental justice through its Environmental Equity policy.

The current methods of enforcement NC DENR relies are sending letters directly and individual basis. The current methods of public notification used by NC DENR include newspaper, public record, and translated brochure in 2nd language. Some of these methods do not really work very well and may be improved or NC DENR can try other more efficient methods.

The complete meeting memo is in Appendix II.

III. Public Participation in Federal Statutes and EPA Policies ^[9-11]

Outline

1. The National Environmental Policy Act (“NEPA”)
2. The Federal Water Pollution Control Act (“Clean Water Act” or “CWA”)
3. The Safe Drinking Water Act (“SDWA”)
4. The Clean Air Act (“CAA”)
5. The Resource Conservation and Recovery Act (“RCRA”)
6. The Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “Superfund”)
7. The Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) and The Federal Food, Drug, and Cosmetic Act (“FFDCA”)
8. The Toxic Substances Control Act (“TSCA”)
9. The Emergency Planning and Community Right-to-Know Act (“EPCRA”)
10. The Freedom of Information Act (FOIA)
11. Community Involvement in Research
12. NC’s Statutes

Introduction

Several federal statutes and regulations contain public involvement and other requirements relevant to EJ communities. Office of General Counsel (OGC) identified some of these authorities, and its memorandum analyzed a significant number of statutory and regulatory authorities that the Office of General Counsel believes are available to address environmental justice issues during permitting.^[9] Environmental Law Institute (ELI) also identified statutory authorities for furthering environmental justice goals in EPA’s regulatory programs, and identified the most prominently relevant sections of laws to EJ.^[10, 11] Taking these three documents as references, the following are the summaries of the major environmental statutes addressed and used as a basis for the explanation and examples by addressing environmental justice issues from these reports.

ELI addressed the public notice and participation of various environmental laws in three areas, including public notice and comment requirements, opportunities for public hearings and meetings, and citizen advisory groups.

1) Public Notice and Comment

Government agencies are not allowed to make final decisions about polluting activities – whether in the form of regulations, permits, or other action – without

providing the public with reasonable notice and an opportunity to comment. This general requirement to provide notice to the public and an opportunity to comment applied to all federal agencies under a law known as the Administrative Procedure Act. Specific provisions of the environmental laws also require public notice and comment, and some of those provisions invite comments addressing environmental justice issues in particular.

2) Public Hearings and Meetings

In some cases, opportunities for public hearings or meetings are provided automatically. In others, they are held only if enough people show community concern or interest.

3) Citizen Advisory Groups and Other Form of Participation

Site-specific citizen advisory groups or similar informal problem-solving groups are not required under any environmental statutes, but have been authorized in some cases by policy. These procedures are designed to help interested community members get involved in a decision early in the planning stages and to participate in developing and reviewing alternative approaches. Other benefits include to improve communications with the communities, and to ensure that the company/industry or government is aware of issues of concern that may not be directly addressed by environmental laws and regulations. These procedures provide a potentially important opportunity for environmental justice concerns to be expressed and considered in government decisions.

III-1. National Environmental Policy Act (NEPA)

NEPA sets up a process by which the federal government must evaluate the environmental impacts of any major actions that it plans to take.

Public Notice and Participation Requirements

When an environmental impact statement (EIS) is prepared before an agency reaches a final decision on a major federal action, public notice is required at several stages, including the initial “scoping” of issues to be addressed in the EIS, issuance of the draft EIS, and when the final EIS is issued.

Public Hearings and Meetings

The agency proposing a major federal action must hold a public hearing or meeting where substantial environmental controversy exists concerning the proposed action.

Citizen Advisory Groups and Other Form of Participation

None

III-2. Clean Water Act (CWA)

The CWA reflects Congress’s intent first to control and then to eliminate all pollutant discharges into waters. The statute sets a “zero-discharge” goal for toxic pollutants, and

is adopted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters". To achieve this goal, Congress prohibited the discharge from a point source of any pollutant into a water of the United States unless that discharge complies with specific requirements of the Act. Compliance is achieved by obtaining and adhering to the terms of an NPDES permit issued by EPA or an authorized State pursuant to section 402, or a dredge and fill permit issued by the Army Corps of Engineers or an authorized State pursuant to section 404.

There are several CWA authorities under which EPA could address EJ-related public participation in permitting:

In the section of "State Water Quality Standards", consistent with CWA section 101(e), EPA could encourage States to improve public participation processes in the development of State water quality standards through greater outreach and by translating notices for limited English speaking populations consistent with Executive Order 12898 on environmental justice.

In the section of "Issuance of NPDES Permits", consistent with CWA section 101(e), where EPA issues NPDES permits, environmental justice concerns can also be taken into account in setting permitting priorities and improving public participation in the permitting process (greater outreach to minority communities and low-income communities including translating notices for limited English speaking populations consistent with Executive Order 12898 on environmental justice).

Clean Water Act regulations specifically require state programs to provide for public participation, including judicial review of permit approvals, citizen intervention in enforcement actions, and state agency response to citizen complaints.

Public Notice and Participation Requirements

Notice and an opportunity for public comment is required before a state, EPA, or the U.S. Army Corps of Engineers issues a permit for a new source of water pollution, or a renewed or revised permit for an existing pollution source.

Public Hearings and Meetings

A public hearing is required whenever states receive and revise their surface water quality standards (required every three years), which include the uses for which rivers, lakes, and other water bodies will be protected (such as fishing or swimming), and the water quality needed to protect those uses. These hearings provide an opportunity to argue that subsistence fishing or other uses of concern to community residents should be protected

Citizen Advisory Groups and Other Form of Participation

None

III-3. Safe Drinking Water Act (SDWA)

The SDWA has two principal programs: The Public Water Supply program regulates public water systems and the quality of drinking water they provide for human consumption. This program contains no federal permitting. The Underground Injection

Control (UIC) program establishes controls on the underground sources of drinking water from contamination.

Public Notice and Participation Requirements

The state or EPA must provide notice and an opportunity for comment before granting a public drinking water system a variance (exception) from a safe drinking water standard, or issuing a permit for an underground injection well.

Public Hearings and Meetings

Public hearings are required before a state can issue an exemption from a SDWA standard or treatment requirement, which requires a showing that there will be no “unreasonable risk to human health”.

Citizen Advisory Groups and Other Form of Participation

States should establish technical and citizens’ advisory committees to assist them in developing their underground injection control programs.

III-4. Clean Air Act (CAA)

The CAA is the federal law that regulates emissions into the air from stationary (not able to move) and mobile (able to move) sources in order to protect public health and decrease air pollution. Title V is one of the several CAA authorities under which EPA could address environmental Justice and public participation in permitting.

Public Notice and Participation Requirements

An opportunity for public notice and comment must be provided before the federal government enters into a settlement agreement for air pollution violations, as is required under several environmental laws.

Public Hearings and Meetings

A public hearing should be held when a draft permit is written for a new or modified air pollution source, at which community residents can voice their concerns

Citizen Advisory Groups and Other Form of Participation

Any board or group that approves CAA permits or enforcement orders have at least a majority of members who represent the public interest and who do not earn a significant portion of their income from anyone regulated under the CAA. Most states have an Air Quality Board of some kind.

III-5. Resource Conservation and Recovery Act (RCRA)

RCRA is the primary federal law regulating the management and disposal of solid and hazardous waste. RCRA authorizes EPA to regulate the generation, transportation, treatment, storage, and disposal of hazardous wastes and the management and disposal of solid waste. The primary area where environmental justice issues have surfaced is in the permitting of hazardous waste treatment, storage, and disposal facilities (e.g., incinerators, fuel blenders, landfills). Pursuant to RCRA section 3005, EPA is authorized to grant permits to such facilities if they demonstrate compliance with EPA regulations.

EPA adopted the “RCRA Expanded Public Participation” rule on December 11, 1995. RCRA authorizes EPA to explore further whether the RCRA permit public participation process could better address environmental justice concerns by expanding public participation in the permitting process (including at hazardous waste management facilities to be located in or near low-income communities or minority communities). Also, in expanding the public participation procedures applicable to RCRA facilities, EPA also would have authority to expand the application of those procedures to the permitting of: (a) publicly owned treatment works, which are regulated under the Clean Water Act; (b) underground injection wells, which are regulated under the Safe Drinking Water Act; and (c) ocean disposal barges or vessels, which are regulated under the Marine Protection Research and Sanctuaries Act.

Public Notice and Participation Requirements

Notice and an opportunity for public comment are required before a state or EPA issues a permit to treat, store, or dispose of hazardous waste.

Public Hearings and Meetings

EPA must hold a public hearing if it receives written notice of opposition to the issuance of a hazardous waste treatment, storage or disposal permit.

Citizen Advisory Groups and Other Form of Participation

None.

III-6. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

CERCLA (also known as “Superfund”) was enacted in 1980 to address the cleanup of sites where hazardous substance have been released into the environment or where there is a substantial threat that hazardous substances will be released into the environment.

Public Notice and Participation Requirements

In the Superfund program, the public is entitled to notice of the proposed cleanup alternatives in a “major local newspaper of general circulation”, and an opportunity to comment on those proposed methods.

Public Hearings and Meetings

One or more public hearings or meetings are required in the community affected by a proposed cleanup of a Superfund program site. These hearings are an important part of local residents’ communication with the government and property owners. At a public hearing or meeting, community residents can give their views on how much risk the community should face during and after the cleanup, and the potential uses of the site in the future.

Citizen Advisory Groups and Other Form of Participation

EPA’s Expanded Public Participation Rule requires that applicants for a hazardous waste permit have at least one informal public meeting with the affected community before the permit application is submitted to the agency. In addition to opening a dialogue with the facility, community residents can take this early opportunity to gather information about what the facility’s plans are.

III-7. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Food, Drug, and Cosmetic Act (FFDCA)

FIFRA and FFDCA together provide the framework for pesticide regulation in the United States. Under FIFRA, EPA is responsible for regulating the manufacture, labeling, sale, and use of pesticide. Under FFDCA, EPA determines the allowable level of pesticide residue in food.

Public Notice and Participation Requirements

EPA must provide notice and an opportunity for comment whenever it receives an application to register a new pesticide or a new use for an existing pesticide

Public Hearings and Meetings

When EPA proposes to cancel or modify the approval of a pesticide, any person “adversely affected” by the proposal may request that a public hearing be held. Other “interested persons” may participate in those hearings as well. These hearings are one example of trial-type hearings with witness and are run according to formal rules of evidence. They may be of particular interest to farm workers or others who are affected by pesticide uses.

Citizen Advisory Groups and Other Form of Participation

Community advisory boards or groups (CABs) have been created at some Superfund sites, although they are not required by the law. CABs should include a representative from each major segment of the community surrounding the Superfund site, and should meet regularly to give input on the investigation and cleanup process.

III-8. Toxic Substances Control Act (TSCA)

TSCA provides a framework for addressing threats to health and the environment from chemical substances. Under TSCA, EPA has authority to screen new chemicals, test existing chemicals, and place restrictions on the use of chemical substances that pose “unreasonable” health or environmental threats. The Toxic Substances Control Act also requires public input in the issuance of test rules.

Public Notice and Participation Requirements

EPA must provide public notice and an opportunity for comment before it regulates chemicals that pose an unreasonable threat.

Public Hearings and Meetings

None.

Citizen Advisory Groups and Other Form of Participation

None.

III-9. Emergency Planning and Community Right-to-Know Act (EPCRA)

Passed in 1986, EPCRA established programs that impose reporting requirements

on owners and operators of certain facilities that produce, store, or use toxic chemicals, or release them into the environment, and makes the reports available to the public. EPCRA was designed to address the problems about chemical security through its four primary provisions: (1) Emergency planning, (2) Emergency release notification, (3) Hazard Chemical Storage Reporting, and (4) Toxic Chemical Release Inventory (TRI).^[12]

Public Notice and Participation Requirements

Emergency planning: State Emergency Response Commissions (SERCs) created Local Emergency Planning Committees (LEPCs) across each state and appointed the original members. LEPCs must draft an Emergency Response Plan for their jurisdictions and make chemical and safety information available to the public.

Emergency release notification: Requires prompt notification of release of more than 1000 hazardous chemicals to the LEPC, SERC, and fire department.

Hazard Chemical Storage Reporting: Each year facilities must complete “Tier I or II” forms which describe chemical inventories, locations, and the manner of storage for all chemical present.

Toxic Chemical Release Inventory (TRI): The EPA created its TRI program to document chemical releases of more than 600 toxic substances.

Public Hearings and Meetings

None.

Citizen Advisory Groups and Other Form of Participation

Local Emergency Planning Committees (LEPCs) are volunteer groups that are comprised of individuals that present different interests.

III-10. Freedom of Information Act (FOIA)

FOIA ensures that the public has access to information in the federal government’s files. A member of the public can file a written request for information from the federal government. The government must respond within ten days saying how and when it will provide access to the documents (or stating why it will not provide such access). Many states have similar public access statutes.

EPA can promote environmental justice by providing communities with research results and information necessary to facilitate community involvement and participation. Certain statutes explicitly authorize the sharing of research results with the public. For example, CERCLA Section 311(b)(8) requires EPA to maintain a publicly-available library of information on treatment technology. CAA Section 103(b) authorizes the Administrator to collect and make available research results, and Section 112(l)(3) requires EPA to maintain a publicly-available air toxics clearinghouse containing research on preventing and controlling health risks. In addition, Section 1442 (b)(1) of the Safe Drinking Water Act (SDWA) authorizes EPA to collect and make available information about the research, demonstrations, and recommendations for providing a dependably safe supply of drinking water.

Finally, EPA can promote environmental justice by making information derived through statutory reporting requirements available and accessible to the public, to the

extent permitted by law. This information can be used by community groups to assess risks, promote public participation in environmental decision-making, and to support enforcement actions where necessary. The public can obtain much of this information through the Freedom of Information Act, and many statutes authorize or require EPA to make specific types of information publicly available.

III-11. Community Involvement in Research

Federal environmental laws support EPA efforts to establish community participation in agency research activities. A variety of provisions create mechanisms to facilitate this involvement. For example, numerous statutes authorize EPA to provide funding to private organizations and individuals. A number of environmental laws establish formal advisory bodies to inform EPA's research activities, and these can include individuals with expertise in environmental justice issues.

IV. EJ and Public Participation: Survey of EJ Participants in NC

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. To learn about people's experience and viewpoints regarding public participation and environmental justice issues and to determine if there is any gap between public participation policies and the implementation in reality, CWFNC conducted questionnaire surveys in 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. Appendix III lists the copy of questionnaire, and the results of these surveys will be explained in details in the following sections.

IV-1. Environmental Justice Priorities

In the first question, we wanted to know the concerns about various environmental justice issues and their priorities for the public. We asked them to rank the potential importance (from 1=least important to 5=most important) and provide their comments on each of them, as well as additional suggested priorities. Referring to U.S. EPA's Environmental Justice Priorities of Environmental Justice Strategic plan, we adjusted a lot of the priority list to better present the most important ones.

From Table II and figure 1, 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 three least important priorities. Therefore, in general, we can say that clean water and air are the highest EJ priorities for these people. The least important one was "Reuse of partially cleaned-up sites;" some people even commented that these kinds of sites shouldn't be reused.

Table II. Rankings of Environmental Justice (EJ) Priorities

Rankings	EJ Priorities	Average Weights
#1	Reduce exposure to air toxics (health impacts, strong odors)	4.93/5
	Safe drinking water – protecting lakes & rivers	
#2	Safe drinking water – preventing well contamination	4.89/5
#3	Environmental law enforcement to protect communities	4.85/5
	Cleanup of contaminated sites	
	Reduce exposure of kids to pesticides	
#4	Reduce the incidence of childhood lead poisoning	4.81/5
	Reduced pollution from untreated sewage	
#5	Public participation and right-to-know	4.74/5
	Reduce exposure to mercury (source: coal fire power plant, pathway: accumulation in stream sediments, exposure: eating fish)	
	Reduce asthma attacks	
#6	Reduce exposure of workers or farmers to pesticides	4.70/5
#7	Strengthen permits, fair siting of facilities	4.67/5
#8	Recreational access to clean and safe parks or greenways	4.26/5
#9	Safe fish/shellfish	4.20/5
#10	Safe swimming, fishing & boating	4.07/5
#11	Reduce exposure to diesel	4.04/5
#12	Reuse of partially cleaned-up sites	3.81/5

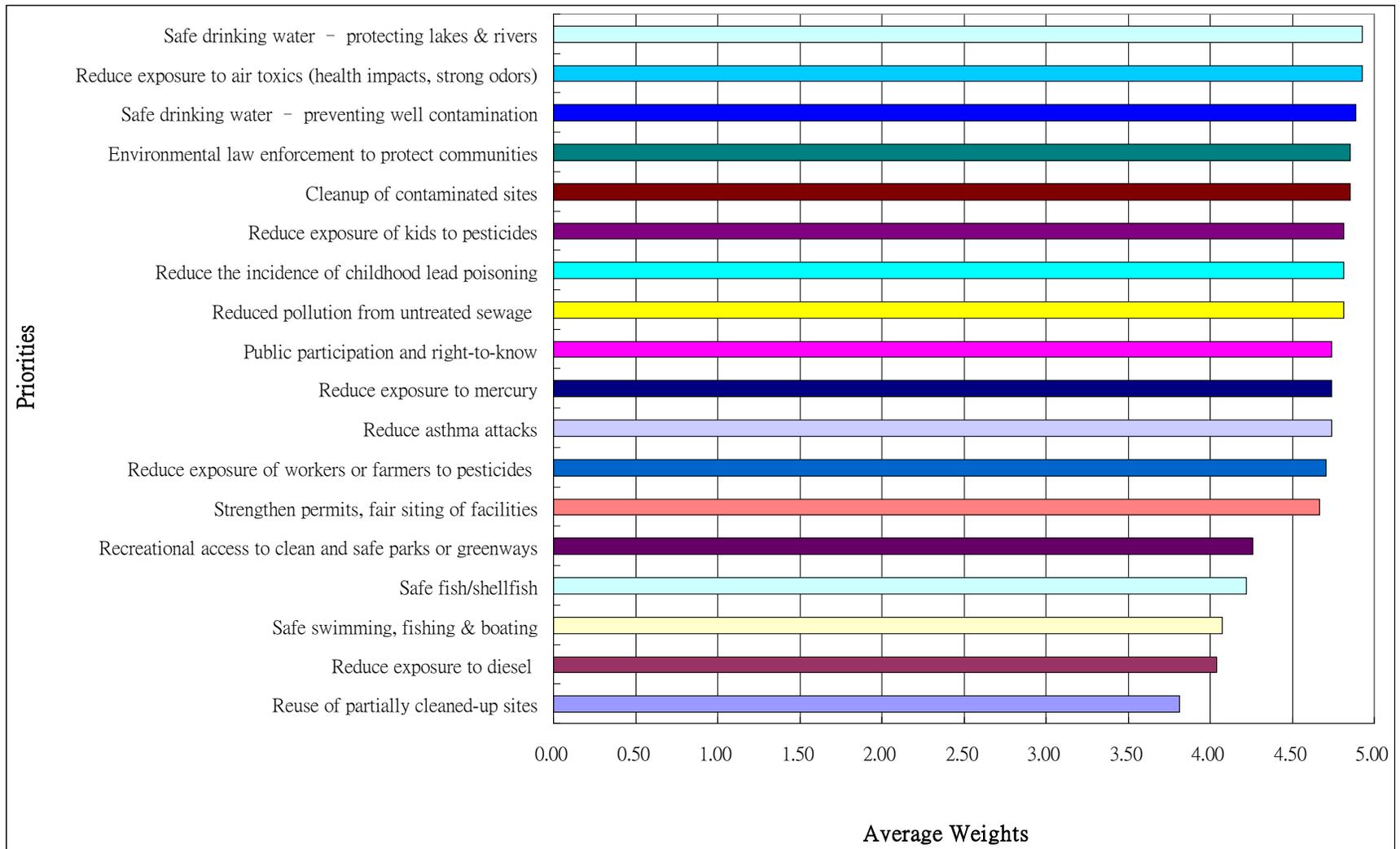


Figure 1. Rankings of Environmental Justice (EJ) Priorities

IV-2. Public Participation

1. Public Notice and Comment Provisions

Table III lists the numbers of effective or ineffective tools and odds of each tool. Survey results show that the most effective public notice tool is “poster in local churches”, followed by “mail” and “poster in local community centers”. On the contrary, the least effective tool is “poster in front of facility under construction”, followed by “local newspaper”, “email” and “Poster in local supermarkets or convenience stores”. The results are quite informative. “Poster in local churches” is the most effective tool probably due to the high level of church attendance in NC. Considering that North Carolina is part of the Bible belt and 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 could 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 most two common used tools by NC-DENR. Especially the one of “Poster in front of facility under construction” is the worst one because it got the lowest points in “effectiveness” and highest points in “not effective”, which results its lowest ranking in “Odds,” or the ratio of votes for effective to those judging it ineffective.

Table III. Effectiveness of Public Notice Tools

Tools	Effective	Not Effective	Odds
Poster in local churches	20	5	4.00
Mail	19	5	3.80
Poster in local community centers	18	5	3.60
Poster in public library	16	8	2.00
Poster in local schools	16	8	2.00
Email	17	9	1.89
Local newspaper	16	9	1.78
Poster in local supermarkets or convenience stores	16	9	1.78
Personal door notice	15	9	1.67
Poster in front of facility under construction	10	15	0.67

2. Public Hearings and Meeting Provisions

Survey results show that about half of the respondents are actively attending various public hearings and half of them are not, mostly because they didn't receive notice. For people who have attended public meetings, most indicate that they 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 little 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.

Table IV. Experience of Public Hearings and Meetings

1. How many public hearings related to an environmental issue (ex: permit or zoning) have you ever attended?		
None		9
Once or twice		6
3 times to 10 times		4
More than 10 times		7
2. If you have never attended a public hearing, what is the reason?		
Not receiving notice	9	
Not a priority/need to	2	
Too busy	1	
Not feel I can make a difference	3	
Others	2	Not affect me yet
3. If you have attended a public hearing, what was(were) the topic(s) of the hearing(s) that you participated in?		
<ul style="list-style-type: none"> ● Plant closing, Disaster Recovery, Economic Development, etc. ● CAFOs Water Air ● increasing funding for sidewalks/bike lanes ● living wage ● environmental & health issues, H2O contaminations, community, day care, & church ● Environmental and Health improvement ● issues related to hogs, clean air ● Town Hall (Community Meeting) ● Zoning ● Landfill siting, prison siting ● Water +sewage issues, land fill issues ● Landfills, Environmental condition of flood survivors, Stop privatization of public hospitals ● Hog farms ● 4 Lane HWY considers dividing a black community ● The construction of operation of hog operation 		
4. Did you have meaningful involvement in the public hearing?		
Yes		12
No		7

So-so	1
5. If you didn't feel you were meaningfully involved in the public hearing(s), what were the possible factors?	
English Language barriers	0
Concepts/technical terms were too hard	2
Bad atmosphere, ex: arrogant officials	7
Not much time for public comments during meeting	4
Others	4

3. Citizen Advisory Groups and Other Forms of Participation

In the survey about local citizen advisory groups, a higher percentage of respondents expressed distrust when such advisory groups are organized by business or industries than when they are organized by local government. Decreasing the distrust of local people by substantive and reliable information must be a priority of EPA and NCDENR when assisting business/industry in organizing such citizen advisory groups. The detailed results are listed in Table V.

Table V. Citizen Advisory Groups and Other Forms of Participation

1. Which way would you feel more comfortable making comments?	
Speaking in the public hearing	17
Sending written comments to the agency	12
2. Do you believe that local citizen advisory groups can be effective in protecting public interests and the environment?	
If organized by local government	
Yes	9
No	8
If organized by business or industries	
Yes	5
No	12
Maybe	1
3. Do you have any recommendation to enhance your ability to participate in environmental decision-making?	
<ul style="list-style-type: none"> ● More informative or public health problems ● ways to increase notification are always helpful and provide a quick way to comment ● continue to notify me ASAP & closer locations as possible ● more media publication ● run for an office ● communities group ● Training more about Permits, zoning, etc. ● more collaboration as with NCEJN ● Notification of construction to the citizens of the communication 	

In conclusion, despite the small sample size and possible selection bias (most attendees are concerned citizens about environmental issues), the result above is informative and makes us aware that there is a gap between public participation policy and how those policies are actually implemented.

IV-3. EJ Factors

In this section, 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.

The first question we asked is "*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?*" Some people replied that they had experienced environmental injustice and their answers are listed in the following responses.

(1) "The African American communities, in particular, communities of color and poor communities in NC and all over this country are under constant attack by industries who use our communities as dumping grounds from industrial hog operations, poultry farms, land fills, sludge waste, low-wage jobs, to dangerous and unsafe work places, just to name a few. These operations are endorsed and supported by people who are supposed to protect our interest, namely our elected officials."

(2) "Our community experienced environmental injustice by having Class B municipal sewage sludge (over 40 million gallons) applied to farm land adjacent to our homes. We were unable to get any assistance with the many health problems we related to land applied sewage sludge exposure via air and water. In NC, the local health departments have no enforcement or regulatory powers at all in this process. We filed an official EPA complaint because of the persistent health problems we experienced. The EPA would not even discuss the health problems with us. The county health department did not send anyone to investigate the health complaints, nor did the NC DHHS. The sludge applicators and the municipalities do not give any notice of land applications, nor does anyone consider ill health or compromised immune systems or respiratory problems of citizens near the application sites. All adverse health problems have been dismissed as "odor perception problems", or "psychological problems." The EPA said they did not have validation or proof of sludge related health complaints. However, the EPA will not record, track, or investigate the health complaints from sewage sludge exposure reported from almost every state in the U.S."

(3) "Warren County, North Carolina." "Environmental Racism." "Injustice to be dumped on."

(4) "I think when I was a teenager, there was an issue with PCB's in the Neuse River, near where I lived."

The second question is "*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?" Other than no opinions about this question, some people suggested age/children. Their answers are list in the following.

(1) "Our health and property values, our children and their future as well as what they will inherit as a result of the weak protection laws of the agencies that are supposed to monitor these industries. In addition, our air and water quality are factors that must be considered."

(2) "Age – children are more vulnerable to environmental impacts, yet our laws rarely take this difference into account and many levels of safe exposure are based upon measured exposure in adults."

(3) "Human health risks and impacts should always have primary consideration. The fresh foods we eat, the milk we drink, the cereal or cattle meat we eat may have toxic metals and heavy dioxin contamination from land applied sewage and industrial sludge. Nobody knows how much heavy metal is in produce, grains, dairy or meat because nobody tests for this very real danger. All large US food companies tests for bacteria only--not metals or carcinogens in the foods they buy for processing. Only two companies refuse to buy human food grown on sludge applied lands--Heinz and Del Monte."

(4) "Political bosses who promise communities protective. But wind up sweetening the pockets of other political persons or wealthy individuals. Poor have no one looking out for their rights!"

(5) "I am very concerned about the children and the impact of these environmental disparities on their small/young bodies."

(6) "Health of children walking to school, locations of school."

(7) "Availability of equal education."

(8) "We were encountered by those injustices mostly in busy city areas whenever we visit those areas, but not on a day to day basis."

The third question we asked was: "***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?***" A few people disagreed with this proposal; while most others agreed without finding anything wrong with this proposal. And we can see a big misunderstanding from the manipulated wording in the proposal. The new EPA draft plan omits any mention of race in dealing with environmental justice issues, as well as socioeconomic status. Instead, the new plan defines environmental justice as 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. However, environmental justice refers to improving the environmental conditions in low-income and minority communities that are disproportionately affected by high concentrations of pollution. If eliminating race and socioeconomic status, then the key component in addressing environmental justice is totally missed. EPA's plan has been criticized by many environmental justice groups and legislators, as reported in *Greenwatch Today*, saying that it "will do nothing to reduce the

existing disparate impacts suffered by low-income and minority communities and may contribute to the future increase of these impacts." [13]

(1) "I feel that this proposal is a cop out for policing the industries that are already destroying the environment and holding them responsible for their actions and disregard for people. I think that this will open up the communities mentioned above for more environmental injustice, and loss and destruction of our communities. I believe that they will continue to place their unwanted waste and businesses in communities that they feel are defenseless. If they really wanted to treat all communities equally, then our communities would not even be on their maps for placement consideration until they truly dumped equally."

(2) "I think in an ideal world this would be fine, but the reality of our culture is that there is still too much disparity that corresponds with race and SES to remove these factors from consideration. We need to consider these factors so that we can make sure that people of color and low SES communities are not bearing the brunt of environmental exposures."

(3) "Yes, agree."

(4) "If the EPA had fully considered race and socioeconomic status in decision making thus far, there would be less environmental problems in our communities. Rural communities are seldom consulted prior to setting up hog farms, spreading municipal and industrial waste on farmlands, or any other activities corporations or governments want to keep away from the more affluent neighborhoods or communities. If decisions had been made using the existing regulations, poor communities would show benefit. Without race and economic status as consideration factors, I fear we will suffer even more environmental injustices. The EPA proposal to drop the considerations makes an erroneous assumption that the decisions made are from a level playing field where all persons, communities, etc. are considered. It sometimes appears that race and low socioeconomic status is the drawing card for environmental injustice!"

(5) "I agree. God created people equal."

(6) "If affluent communities receive a toxic cleanup, I will be shocked – they will pay whatever to keep it from coming to them – who knows what they can buying off."

(7) "I believe the result of this proposal will be like so many things in the past. Due to the lack of "cultural capital" in the black community, I am afraid these communities will be taken advantage. We will probably see a higher incidence of asthma and respiratory illnesses, as well as cancer."

(8) "I think this is a bad plan because although all communities should be treated equally, they won't be. Poor people will still feel the bunt of environmental problems."

(9) "I believe race and socio-economic status should be observed now and in the future in order to ensure the good of all communities."

(10) "First of all, this proposal will tell people from various races that they are not discriminated. Secondly, the number of population affected by diseases due to environment will decrease."

V. References

1. <http://www.epa.gov/compliance/basics/ej.html>.
2. Bullard, R.D., *New Crisis, Environmental justice for all*, in http://www.findarticles.com/p/articles/mi_qa3812/is_200301/ai_n9212731. 2003.
3. <http://www.epa.gov/compliance/environmentaljustice/index.html>.
4. <http://www.epa.gov/compliance/environmentaljustice/nejac/index.html>.
5. <http://www.epa.gov/compliance/environmentaljustice/interagency/index.html>.
6. <http://www.epa.gov/region4/ej/>.
7. U.S. EPA, R., *Region 4 Action Plan to Integrate Environmental Justice*. 2003, Environmental Justice/Community Liaison Staff Office, Accountability Management Branch, Environmental Accountability Division.
8. <http://www.enr.state.nc.us/admin/pdf/Envequin.pdf>.
9. OCG, *EPA Statutory and Regulatory Authorities Under Which Environmental Justice Issues May Be Addressed in Permitting*. 12/12000, Office of General Council.
10. *Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities*. 11/2001, Environmental Law Institute.
11. Breggin, L., *A Citizen's Guide to Using Federal Environmental Laws to Secure Environmental Justice*. 2002, Environmental Law Institute.
12. McCloy, B., *Chemical Security in North Carolina*, Clean Water for North Carolina: Durham.
13. *Lawmakers Blast New EPA Environmental Justice Plan*. July 28, 2005, Greenwatch Today.

Appendix I. Public Participation in Federal and State EJ Policies and Guidance

- **Table 1. Mission Area of Public Participation, Accountability, partnership, Outreach, and Communication with Stakeholders**
- **Steps in public participation under National Environmental Policy Act (NEPA)**
- **Table 2. The Potential Stakeholders suggested by EPA**
- **Table 3. Communications Challenges of Particular Concern in Low-Income and/or Minority Communities and Possible Approaches to Overcoming**
- **Table 4. Critical Elements for Conducting Public Participation**
- **Table 5. Core Values and Guiding Principles for the Practice of Public Participation**
- **Table 6. Strategies and Activities under Goal #3: Enhance Public Participation and Access to Information**

Table 1. Mission Area of Public Participation, Accountability, partnership, Outreach, and Communication with Stakeholders

<p>Goal (1) Outreach and Partnerships - To ensure their active public participation and to provide 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 Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), and Tribal Colleges), and business and industry.</p> <p>Measure of Progress: (Draft) 50% of stakeholders surveyed indicate that the Agency's level of effort to ensure active public participation and early in-put has improved.</p> <p>Objectives</p> <p>EPA will use the National Environmental Justice Advisory Council (NEJAC) along with input from other stakeholders, particularly those from affected communities, early in the decision-making process.</p> <p>EPA will utilize public participation models, such as the one created by NEJAC, in its partnerships, and outreach and communication activities.</p> <p>EPA will work to improve environmental education, training opportunities and partnerships with academic institutions, including HBCUs, HSIs, and Tribal Colleges. EPA will improve communication, education, and outreach on environmental justice issues among all stakeholders.</p> <p>EPA will ensure that public documents and notices related to human health or the environment are concise, understandable to the community involved, and are made readily accessible to the public.</p> <p>Whenever possible and appropriate, EPA will publish public notices for EPA public meetings in languages other than English, in local and minority-oriented newspapers, and through electronic media, including radio and television. EPA will identify a network of translators to assist in conducting public meetings.</p>	<p>Key Efforts</p> <p>a. Develop the "NEJAC public participation model and checklist" to provide a comprehensive, easy to follow guide on how to enhance participation of stakeholders in the decision making process. Finalize, test model in a pilot, distribute, review its use by the program offices and regions, and conduct a customer service review to check effectiveness.</p> <p>b. Develop an accessible data base of stakeholders in coordination with all EPA offices. Identify stakeholders, develop master list and sub-lists, and distribute lists for validation and use.</p> <p>c. Continue annual funding for environmental education grants that improve teaching skills; educate the public about human health problems from environmental pollution; enhance State, local, and Tribal government agency programs; promote environmental careers; and provide education for communities and the general public.</p> <p>d. Review, by the "Steering Committee," of established guidance to ensure that public documents and notice related to the environment are understandable to the affected community and are made readily accessible to the public. Additionally, environmental justice components will be added to established training for public documents development.</p> <p>e. Develop a national relocation policy to describe more fully the criteria for when to conduct permanent relocations or temporary relocations as part of remedial activities under Superfund. OERR is jointly planning with the NEJAC a roundtable to acquire community comment from various sites around the Nation, has identified a relocation pilot in one Region, and is working closely with several Regions on their ongoing relocation efforts. *Community roundtable - May 1996; Initiate Relocation Pilot - June '96; Draft National Policy - June '97.</p>
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<p>Objectives (contd.)</p> <p>EPA will ensure mailing lists include Tribal governments and organizations, environmental justice organizations, and other interested stakeholders including schools, civic associations, local business and industry associations, and religious institutions as appropriate.</p> <p>EPA will exchange information and expertise with affected stakeholders.</p> <p>EPA will work to ensure that future legislation will incorporate techniques to improve public participation.</p>	<p>Key Efforts</p> <p>f. Implement EPA's Brownfields Economic Redevelopment Initiative to empower States, communities, and other stakeholders in joint efforts to prevent, assess, safely clean up, and sustainably use "brownfields," where opportunities for expansion or redevelopment are complicated by real or perceived environmental contamination. EPA plans to complete awards of 50 Brownfields pilot cooperative agreements to States, cities, towns, counties, and Tribes to test redevelopment models, direct special efforts toward removing regulatory barriers (without sacrificing protectiveness), and facilitate coordinated public and private efforts at the Federal, State, and local levels. In February 1996, EPA hosted its first Brownfields Pilots National Workshop in Washington, DC to bring together key stakeholders to identify and leverage opportunities for building on the environmental assessment, clean up, and redevelopment efforts of the Brownfields pilots.</p> <p>g. Prepare specific demographic information for regional Superfund sites. Information will be provided to site managers and will include but not be limited to information on income levels, race and nationality, number of non-English speaking residents, and what languages are spoken. With this information on demographics around each Superfund site, site managers will be able to better target communication activities and improve efforts to get residents involved.</p> <p>h. Work with other Federal agencies, the private sector, municipal government, and community groups on a variety of projects (e.g., creation of an eco-industrial park, energy efficiency retrofits for the public school system) that are designed to improve environmental quality while providing jobs and economic opportunity in poor and minority neighborhoods. This effort will be accomplished through the Vice President's Community Empowerment Board and many of the 105 Empowerment Zone and Enterprise Communities.</p>
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<p>Goal (2) Technical Assistance -EPA will examine its current technical assistance programs for minority communities and low-income communities.</p> <p>Measure of Progress: (Draft) 15 % of Agency grants awarded to minority communities and low-income communities that are exposed to disproportionately high and adverse human health or environmental effects.</p> <p>Objective EPA will administer appropriate grant programs for and promote technical assistance to partners particularly small business, community-based organizations, and Tribal governments.</p> <p>EPA will exchange information and expertise with affected stakeholders.</p>	<p>Key Efforts</p> <p>a. Work with community groups through a grant to address the environmental health issues in the Nogales, AZ area (predominantly low income Latino communities). The project will provide environmental health workshops, a quarterly bilingual newsletter, informational hotline, monthly lupus screening clinics, and provide outreach and case management services. Work with individual community members to encourage their leadership skills and share information with friends and neighbors.</p> <p>b. Provide \$350,000 to the Rural Community Assistance Program to help improve or establish basic wastewater and water supply services in twenty four rural, minority communities around the country.</p> <p>c. Initiate a small grants program as part of Border XXI, the next phase of binational environmental planning between the U.S. and Mexico. The program will address environmental issues along the border by strengthening local capacity at the community level. For example, a grant was awarded to develop a cross-border planning mechanism to enhance long-range environmental protection of the natural resources on Kumeyaay reservation lands and to develop a water quality control plan. The grant project also involves cooperation among the Kumeyaay sister Tribes in Baja California.</p> <p>d. Continue the Office of Environmental Justice Small Grants Program and other similar Agency programs to provide assistance to community-based/grassroots organizations and Tribal governments that are working on local solutions to local environmental problems.</p> <p>e. Continue the Office of Environmental Justice Community/ University Partnership (CUP) Grants Program to encourage collaborative projects that provide technical assistance to community organizations.</p> <p>f. Continue the 'Open Airways for Schools' program, which focuses on developing asthma management skills for students, helping parents and teachers create more supportive environments for asthmatic children, and developing activities to reduce indoor pollutants. This partnership between EPA, the American Lung Association, and Zeta Phi Beta sorority will impact millions of urban, poor households with asthmatic children.</p>
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<p>Goal (3) Training - EPA will encourage State, Tribal, and local governments to work with the Federal government to achieve environmental justice goals through training and other coordinated activities.</p> <p>Measure of Progress: (Draft) 60% of EPA's training programs/materials for internal and external use, where appropriate, include discussion of environmental justice issues over the next two years.</p> <p>Objectives EPA will incorporate an ongoing orientation and training program for its personnel on environmental justice issues, including those related to public participation, Tribal relations, health research, and data gathering. The development of training programs will include input from stakeholders, including grassroots organizations. The training will be tailored to the needs of the Office or Region. Training kits may include: generic information on environmental justice, examples of model initiatives and projects, and public participation guidelines.</p> <p>EPA will offer training assistance to other Federal agencies and Tribal, State, and local officials on environmental justice issues.</p> <p>EPA will sponsor environmental justice seminars or workshops to focus on media-specific environmental justice activities and case examples</p>	<p>Key Efforts</p> <p>a. Sponsor an EJ Symposium with the Maryland Dept. of the Environment, City of Baltimore, International City/County Mgt. Assoc., and several colleges and community organizations in Baltimore, MD at Morgan State University on October 21/22, 1995. The "Baltimore Symposium on Urban Environmental Justice Research and Education" created an opportunity for scientists, educators; Federal, State and local government representatives, and community leaders to discuss past and ongoing urban environmental justice research and future research needs of the Baltimore community.</p> <p>b. Work with the Lake Pontchartrain Basin Foundation (LPBF) on education and outreach activities in the Basin regarding watershed protection and lake restoration. Young children in minority communities have limited opportunity to learn about, visit or enjoy the Lake. The Foundation and the U.S. Fish and Wildlife Service co-sponsor a nature camp for youth from New Orleans inner-city areas. The event allows children to participate in environmental and educational activities focusing on the Lake. Other activities include: working with teachers in developing curriculum about the basin's environmental issues; field trips for students to the canal pumping stations and to the Lake; and field trips to New Orleans' area nature centers.</p> <p>c. Coordinate with the Denver Federal Executive Board to organize meetings, conferences, and/or training sessions with other Federal agencies in the Denver metropolitan area to provide coordination and improve awareness of EJ efforts. Topics for the meetings will include: (1) education on environmental justice issues for staff; (2) coordination of EJ research and identification of future needs; and (3) a conference on coordinating EJ activities in Indian country.</p> <p>d. Continue the Radon Education and Outreach program which provides targeted inner city communities with education about the risks from exposure to radon. Provide training for the mitigation of those risks by the community members themselves.</p>
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<p>Goal (4) Management Accountability - EPA will strengthen management accountability for environmental justice activities.</p> <p>Measure of Progress: (Draft) EPA will be able to report quantitatively and qualitatively environmental justice-related actions and outcomes it has achieved since implementation.</p> <p>Objectives EPA will reorganize to strengthen leadership and management of environmental justice activities in the Agency.</p> <p>EPA will develop a system for monitoring and evaluating program improvements resulting from the integration of environmental justice.</p> <p>Each Office or Region will develop a feedback mechanism for tracking environmental justice activities across the Office or Region, focusing on both major environmental justice projects and routine implementation of the policy by staff.</p>	<p>Key Efforts</p> <p>a. Develop a regional internal tracking system for program support activities provided by the EJ core. The system will track activities by site and note the type of involvement by EJ staff, the time frame, and the outcome of such involvement. This system will provide both a current record of ongoing EJ involvement as well as a historical record of past EJ involvement and the outcome.</p> <p>b. Develop a monitoring and evaluation program for tracking project commitments and measuring successes as part of the Implementation Plan for the EJ Strategy.</p> <p>c. Encourage Superfund contractors to promote environmental justice through the development of Environmental Justice award-fee criteria for the award-fee plans of all new Response Action Contracts (RACs). The RACs are the long-term remedial clean-up contracts placed in the regions to support the Superfund program. The Environmental Justice award-fee criteria provide monetary incentives for contractors to demonstrate a commitment to environmental justice throughout contract performance.</p> <p>d. Produce the "OSWER Environmental Justice Action Agenda" and "Waste Programs Environmental Justice Accomplishments Report" through partnership with EPA regional offices and NEJAC. These publications track program accomplishments and ensure management accountability on environmental justice issues within the solid waste and emergency response programs. * Agenda/Report - 5/95; Accountability - ongoing</p>
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<p>Goal (5) Public Participation in Facility Siting and Permitting - A major priority for the Office of Solid Waste and Emergency Response (OSWER) is to address the siting and permitting of hazardous waste facilities that might have a disproportionately high and adverse human health or environmental effect on minority or low-income communities.</p> <p>Measure of Progress: (Draft) 30% of stakeholders surveyed indicate that the Agency's level of effort to ensure active public participation and early in-put has improved.</p> <p>Objectives EPA will improve public participation in siting and permitting decisions.</p> <p>Resolution of these issues is expected to focus on at least two major avenues: 1) early and ongoing public participation in permitting and siting decisions, and, 2) active participation in the Agency-wide effort to develop methodologies for defining cumulative risk from multiple sources.</p>	<p>Key Efforts</p> <p>a. Provide avenues for earlier and more meaningful stakeholder input into the RCRA permitting process. Promulgate the "RCRA Expanded Public Participation Rule" (12/95) to provide earlier opportunities for public involvement and expands public access to information. Revise the "RCRA Public Involvement Manual" to meet the needs of permitting agencies, facilities, and the public.</p> <p>b. Improve all EPA permitting processes through the Permits Improvement Team and the Enhanced Public Participation Task Force. Develop an "easy reference" guidance for public participation activities. Generate recommendations for more meaningful public participation. Explore a pilot project on the use of comprehensive Community Involvement Plans (CIPs) at selected facilities.</p>
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Table source: EPA's Environmental Justice Strategy (4/95) and EPA's 1996 Environmental Justice Implementation Plan by Office of Environmental Justice (OEJ)

Steps in public participation under National Environmental Policy Act (NEPA) (Council for Environmental Quality (CEQ)'s Environmental Justice Guidance Under the National Environmental Policy Act (12/97) and EPA's Final Guidance For Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses (4/98)

(1) Scoping.

CEQ regulations require "scoping" after the publication of a notice of intent to prepare an Environmental Impact Statement (EIS), but before the EIS is prepared. In general, scoping has three broad purposes: identifying public and agency concerns with a proposed action, defining issues and alternatives to be examined in detail, and saving time by ensuring that relevant issues are identified early and drive the analyses. A public meeting is held during scoping, with notice of the meeting made in the *Federal Register*, local newspapers, and utilizing other means of announcing public meetings, depending on case-specific circumstances. Scoping for Environmental Assessment (EA) is not addressed in either CEQ or EPA regulations. It is emphasized that public participation does not end here, but continues throughout the NEPA process.

If an agency identifies any potentially affected minority populations, low-income populations, or Indian tribes, the agency should develop a strategy for effective public involvement in the agency's determination of the scope of the NEPA analysis. Customary agency practices for notifying the public of a proposed action and subsequent scoping and public events may be enhanced through better use of local resources, community and other nongovernmental organizations, and locally targeted media.

The participation of diverse groups in the scoping process is necessary for full consideration of the potential environmental impacts of a proposed agency action and any alternatives. By discussing and informing the public of the emerging issues related to the proposed action, agencies may reduce misunderstandings, build cooperative working relationships, educate the public and decision-makers, and avoid potential conflicts.

Agencies should recognize that the identity of the relevant "public" may evolve during the process and may include different constituencies or groups of individuals at different stages of the NEPA process. For the participation to be meaningful, the public should have access to enough information so that it is well informed and can provide constructive input. CEQ makes the following suggestions for the Agencies:

- Agencies should consider enhancing their outreach through the following means:
 - Religious organizations (e.g; churches, temples, ministerial associations);
 - Newspapers, radio and other media particularly media targeted to low-income populations, minority POPULATIONS, OR Indian tribes;
 - Civic associations;
 - Minority business associations;
 - Environmental and environmental justice organizations;
 - Legal aid providers;

- Homeowners', tenants', and neighborhood watch groups;
 - Federal, state, local, and tribal governments;
 - Rural cooperatives;
 - Business and trade organizations;
 - Community and social service organizations;
 - Universities, colleges, vocational and other schools;
 - Labor organizations;
 - Civil rights organizations;
 - Local schools and libraries;
 - Senior citizens' groups;
 - Public health agencies and clinics;
 - The Internet and other electronic media.
- The following information that may help inform the public during the scoping process:
 - A description of the proposed action;
 - An outline of the anticipated schedule for completing the NEPA process, with key milestones;
 - An initial list of alternatives (including alternative sites, if possible) and potential impacts;
 - An initial list of other existing or proposed actions, Federal and non-Federal, that may have cumulative impacts;
 - Maps, drawings, and any other appropriate material or references;
 - An agency point of contact;
 - Timely notice of locations where comments will be received or public meetings held;
 - Any telephone number or locations where further information can be obtained;
 - Examples of past public comments on similar agency actions.

Thorough scoping is the foundation for the analytical process and provides an early opportunity for the public to participate in the design of alternatives for achieving the goals and objectives of the proposed agency action.

(2) Public review of Environmental Assessments (EAs) and Environmental Impact Statement (EISs)

As with scoping, CEQ and EPA NEPA regulations clearly specify the means by which the public is involved in reviewing draft and final EISs. EPA regulations require at least one public meeting on all draft EISs. The meeting is generally announced in the

Federal Register and in local newspapers and by other means. Regulations also provide other means of soliciting comments and information. Comments must be solicited from other appropriate federal, tribal, state, and local agencies, and from the public, specifically including a request for comments from "those persons or organizations who may be interested or affected".

EPA then has to consider and address all comments received on the draft EIS in preparing the final EIS, and final EISs must include responses to comments. As with draft EISs, final EISs are noticed in the *Federal Register* and elsewhere. Again, interested parties may submit comments on final EISs prior to EPA's final decisions. EAs must be made available to the public. A combination of methods may be used to provide notice of availability; the methods should be tailored to the needs of particular cases.

(3) Public review of RODs (Records of Decisions) and Findings of No Significant Impact (FONSI).

RODs on EISs must be disseminated to all those who commented on the draft or final EIS. No public review is required prior to or after issuance of the ROD. FONSI on EAs, in contrast, must be made available for public review before they become effective, and this involves at least local notice and advertising. The FONSI and "attendant publication" must state that comments disagreeing with the decision may be submitted, and any such comments must be considered by EPA.

Table 2. The Potential Stakeholders suggested by EPA

▪ Environmental organizations and agencies
▪ Minority businesses, associations and trade organizations
▪ Civic associations and public interest groups
▪ Grassroots/community-based social service organizations
▪ Federal elected officials and agencies
▪ Homeowners' or tenants' associations, neighborhood watch groups and resident organizations
▪ Labor unions and organizations
▪ State and local elected officials and agencies
▪ News media, the Internet and other electronic media
▪ Tribal governments and Tribal organizations
▪ Religious groups and organizations
▪ Libraries, vocational and other schools, colleges and universities
▪ Medical community
▪ Legal aid providers
▪ Rural cooperatives
▪ Civil rights organizations
▪ Senior citizen's groups

Table 3. Communications Challenges of Particular Concern in Low-Income and/or Minority Communities and Possible Approaches to Overcoming

<i>Challenge</i>	<i>Possible Approaches to Overcoming</i>
Language or Communication barriers	<ul style="list-style-type: none"> • Provide assistance to hearing or sight impaired individuals • Provide simultaneous translation of meetings • Use local translators where possible • Translate key documents in entirety (notices, summaries, etc.) • Establish "comment line" (e.g., 800 number) for callers to leave recorded comments • Advertise meetings/process in alternative-language medium • Design communication strategy to reach all segments of population • Use facilitated meeting rather than conventional stand-up comments to encourage comments
Distance to meeting or inconvenient access (e.g., rural or cross-town)	<ul style="list-style-type: none"> • Arrange for "comment line" (e.g., 800 number) to provide remote access to meeting or to allow callers to leave recorded comments • Arrange for telephone tie-in from several locations (e.g., from several schools, religious centers) • Hold series of shorter meetings (down to 1-2 hours each) in multiple locations • Arrange for alternative transportation (possibly through proponent) • Ensure location is accessible to public transportation and identify itinerary in notices • Use local cable-channel broadcast with telephone call-in • Have proponent provide transportation vouchers • Seek advice of local groups/individuals • Arrange for satellite link-up (perhaps funded by proponent)
Unfamiliar surroundings (government buildings, luxury hotel, etc.)	<ul style="list-style-type: none"> • Use schools or other local facilities including religious centers, churches, temples, mosques • Have several smaller decentralized meetings, including open-air meetings (possibly with tent backup) in season • Seek advice from local groups/individuals • Use local facilitator • Establish "comment line" (e.g., 800 number) for callers to leave recorded comments or to participate from remote locations
Outside normal EPA communications loops (i.e., <i>Federal Register</i>, newspapers)	<ul style="list-style-type: none"> • Use pro-active approach to identify stakeholder (both groups and affected individuals). Consult with local advocates/public interest groups to identify outreach mechanisms and refer to the <i>People of Color Environmental Groups Directory</i>. • Disseminate information through alternative media (neighborhood organization newsletters, religious centers, fliers, local cable access channel, local radio broadcasts, etc.). • Co-sponsor public meetings with local community groups to nurture trust and credibility. • Make announcements to those on the mailing list; make follow-up phone calls to encourage attendance. • Direct consultation with tribal governments and public meetings at

	tribal facilities or on/near tribal lands.
Format of Meetings	<ul style="list-style-type: none"> • Use town hall type meetings. • Avoid "panel of experts" • Use small focus-group seminars or workshops. • Use community "experts" and comments as part of communication strategy • Seek advice of local groups. • Use a trained facilitator who is sensitive to environmental justice issues.
Schedule conflicts (i.e., conflict with working hours, working days)	<ul style="list-style-type: none"> • Conduct personal interviews using audio or video recording devices • Hold after-hours and/or weekend meetings or sessions • Hold meetings on successive days • Hold multiple shorter meetings at diverse times/days • Establish "comment line" (<i>e.g.</i>, 800 number) for callers to leave recorded comments • Arrange for child-care (possibly funded by proponent)
Technically complex issues	<ul style="list-style-type: none"> • Provide sufficient background explanations beyond the usual means • Use plain language in meetings and printed material • Seek advice of local groups/individuals • Provide hands-on demonstrations/participation (<i>e.g.</i>, tours of similar facilities/locations) • Use visual presentations (<i>e.g.</i>, pictures, videos) • Provide two-way communication - Q & A • Use background summary reports, fact sheets, and abstracts • Provide technical and/or financial assistance to community, local organization, and/or tribal government to review, evaluate, and comment on the NEPA documents and provide meaningful input throughout the NEPA process.
Trust	<ul style="list-style-type: none"> • Clearly present goals of NEPA, the proposed action, the public involvement process, and what is expected to be gained from the process • Do not oversell: present uncertainties and limitations • Goals should be written and in clear language • Present experiences and track record, successes and failures

Table 4. Critical Elements for Conducting Public Participation

<p>1. Preparation</p> <p>A. Developing co-sponsoring and co-planning relationships with community organizations is essential to successful community meetings. To ensure successful meetings, agencies should provide co-sponsors the resources they need and should share all planning roles. These roles include:</p> <ul style="list-style-type: none"> ▪ Decision making ▪ Development of the agenda ▪ Establishment of clear goals ▪ Leadership ▪ Outreach <p>B. Educating the community to allow equal participation and provide a means to influence decision making.</p> <p>C. Regionalizing materials to ensure cultural sensitivity and relevance.</p> <p>D. Providing a facilitator who is sensitive and trained in environmental justice issues.</p>
<p>2. Participation</p> <p>A. As the NEJAC model demonstrates, the following communities should be involved in environmental justice issues:</p> <ul style="list-style-type: none"> ▪ Community and neighborhood groups ▪ Community service organizations (health, welfare, and others) ▪ Educational institutions and academia ▪ Environmental organizations ▪ Government agencies (federal, state, county, local, and tribal) ▪ Industry and business ▪ Medical community ▪ Non-government organizations ▪ Religious communities ▪ Spiritual communities <p>B. Identify key stakeholders, including:</p> <ul style="list-style-type: none"> ▪ Educational institutions ▪ Affected communities ▪ Policy and decision makers (for example, representatives of agencies accountable for environmental justice issues, such as health officials, regulatory and enforcement officials, and social agency staff).
<p>3. Logistics</p> <p>A. Where:</p> <ul style="list-style-type: none"> ▪ The meetings should be accessible to all who wish to attend (public transportation, child care, and access for persons with disabilities should be considered). ▪ The meeting must be held in an adequate facility (size and conditions must be considered). ▪ Technologies should be used to allow more effective communication (teleconferences, adequate translation, equipment, and other factors). <p>B. When:</p> <ul style="list-style-type: none"> ▪ The time of day and year of the meeting should accommodate the needs of

C. How:	<p>affected communities (evening and weekend meetings accommodate working people, and careful scheduling can avoid conflicts with other community or cultural events).</p> <ul style="list-style-type: none"> ▪ An atmosphere of equal participation must be created (avoid using a "panel" or "head table"). ▪ A two-day meeting, at a minimum, is suggested. The first day should be reserved for community planning and education. ▪ The community and the government should share leadership and presentation assignments.
4. Mechanics	
	<ul style="list-style-type: none"> ▪ Maintain clear goals by referring to the agenda; however, do not be bound by it. ▪ Incorporate cross-cultural exchanges in the presentation of information and the meeting agenda. ▪ Provide a professional facilitator who is sensitive to, and trained in environmental justice issues. ▪ Provide a timeline that describes how the meeting fits into the overall agenda of the issues at hand. ▪ Coordinate follow-up by developing an action plan and determining who is the contact person who will expedite the work products from the meeting. ▪ Distribute minutes and a list of action items to facilitate follow-up.

Table source: National Environmental Justice Advisory Council (NEJAC)'s "The Model Plan for Public Participation" (02/2000)

Table 5. Core Values and Guiding Principles for the Practice of Public Participation

1. People should have a say in decisions about actions which affect their lives.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. The public participation process communicates the interests and meets the process needs of all participants.
4. The public participation process seeks out and facilitates the involvement of those potentially affected.
5. The public participation process involves participants in defining how they participate.
6. The public participation process communicates to participants how their input was, or was not, utilized.
7. The public participation process provides participants with the information they need to participate in a meaningful way.
8. Involve the public in decisions about actions which affect their lives.
9. Maintain honesty and integrity throughout the process.
10. Encourage early and active community participation.
11. Recognize community knowledge.
12. Use cross-cultural methods of communication.
13. Institutionalize meaningful public participation by acknowledging and formalizing the process.
14. Create mechanisms and measurements to ensure the effectiveness of public participation.

Table source: National Environmental Justice Advisory Council (NEJAC)'s "The Model Plan for Public Participation" (02/2000)

Table 6. Strategies and Activities under Goal #3: Enhance Public Participation and Access to Information

<i>Strategy 1. Enhance public participation</i>	
Activity 1a.	Hold public meetings based on Public Participation Guidance
Activity 1b.	Ensure public comment periods are communicated to communities potentially impacted
Activity 1c.	Make EPA documents/reports available to EJ communities
Activity 1d.	Facilitate technical assistance/outreach opportunities
<i>Strategy 2. Educate internal and external stakeholders on EJ</i>	
Activity 2a.	Conduct EJ Listening Sessions for EJ communities
Activity 2b.	Continue outreach programs
Activity 2c.	Participate in and/or conduct workshops, conferences, or community meetings
Activity 2d.	Provide information via various means (i.e., website, newsletter, toll free phone line)
<i>Strategy 3: Manage the EJ Small Grants process</i>	
Activity 3a.	Provide training for new grantees
Activity 3b.	Participate in development of EJ Small Grants Guidance
Activity 3c.	Conduct site visits and monitor grants

Table source: Region 4 Action Plan to Integrate Environmental Justice

Appendix II. Meeting Memo with Mary Penny Thompson, NC-DENR on Friday, July 1, 2005

EJ Policy

The original full time person for Environmental Equity Initiative (EEI) left. The current EJ Coordinator, Ms. Mary Penny Thompson, also serves as an Assistant General Counsel of Office of the Secretary of DENR.

Right now, NC DENR is reviewing EPA's environmental justice guidelines and trying to tie them with its EEI. EPA's guidelines focus on how to deal with formal complaints, but Ms. Thompson is hoping to focus on informal information gathering, which is at the time an issue already exist but complaints still haven't been filed. Her reason was that EPA's appeal process is quite expensive, and NC DENR would like to provide the informal option. CWFNC agreed this process should only be a first step, but should not take additional time for community participants who have often tried for years to get improvement from the facility and the agency, and cannot substitute for a formal process, which must provide a "bottom line" for final agency accountability for resolving EJ issues.

Current Methods of Enforcement:

- 1) NC DENR sends out letters directly for notification;
- 2) Individual basis.

In NC DENR's EEI, one action that the agency said would be taken to meet the goals: "Use demographic information to determine whether there is: 1) a need for greater outreach to community in order to encourage more meaningful participation, or 2) special health risks based on the nature of the population." But till now, there is no information or result generated. CWFNC suggested the EPA Justice Geographic Assessment Tool (<http://www.epa.gov/enviro/ej/>) and Map of NC's Potential Sources of Drinking Water Contamination (http://204.211.89.20/Swap_app/viewer.htm) by DENR's Division of Environmental Health. Ms. Thompson responded that she was very interested in these links and stressed that they hope to add information but not slow down the process.

Public Participation

Current Methods of Public Notification:

- 1) Newspapers of general circulation;
- 2) Public records - for more educated people;
- 3) Translated brochure in 2nd language, ex: for Korean immigrants who run dry cleaning stores (Dry Cleaning Fund).

CWFNC commented that only relying on notification through legal notices in newspapers is not an effective way even for most newspaper readers, less educated people or immigrants and suggested using personal mails or emails as a more public notification

tool. Ms Thompson replied that personal mails may be too expensive for NCDENR, but posting in local libraries or convenience stores may be an option.

Another action that NCDENR claimed was under implementation in its Environmental Equity Policy was “Develop a full record of environmental equity issues.” However, there is no record on EJ issues being kept by the agency. Instead, complaints are put under other categories according to the media for which a complaint is received. For example, complaints about bad water quality are categorized only as water quality issues. Also, there is no tracking system right now that pulls out references to environmental justice issues even in contested cases, much less in public comments or flags permits and complaints as involving low income communities, communities of color, or communities already disproportionately impacted by pollution. Ms. Thompson talked about how to improve this problem:

- 1) Through the improvement of customer service. Ask them to aware of any complaints related with EJ.
- 2) Environmental education: the more challenging issues, not just the “feel good” resource protection approaches.
- 3) Terminology: justice (broadly used in legal system) vs. equity vs. fairness
- 4) Web complaints options. Add an item such as: “Is this issue more related to the nature of my community?”

CWFNC pointed that a significant NC-DENR problem is there is no training in public communication for staff members. Most DENR staff come from technical backgrounds only. CWFNC also suggested EJ training for NC DENR staff, including equity/diversity training, communication skills and GIS tools.