

May 1, 2013

## **EPA Region 1 Regional Implementation Plan to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities**

To implement Administrator Lisa P. Jackson's priority on environmental justice, EPA released "Actions that EPA Regional Offices Are Taking to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities<sup>1</sup>," a set of agency-wide guidelines for development of regional implementation plans aimed at enhancing public participation in permitting actions involving overburdened communities. The participation of overburdened communities<sup>2</sup> in the permitting process is an important means to ensure that our permitting process meaningfully addresses environmental justice concerns.

This plan explains what actions Region 1's permitting programs will take when issuing EPA permits in order to promote greater participation in the permitting process by communities that have historically been underrepresented in the process. It addresses four elements: (1) what types of permits will be prioritized, (2) how these permits will be reviewed for EJ concerns, (3) roles and responsibilities within Region 1 to carry out this plan, and (4) what actions Region 1 will take to ensure enhanced meaningful involvement where there are EJ concerns.

This plan will be reviewed annually, and updated as needed.

*Disclaimer: This document identifies internal recommended procedures for EPA employees who are staff or managers developing or issuing a permit. This document is not a rule or regulation. This plan does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. It does not impose any legally binding requirements.*

### **Priority Permits for Enhanced Public Participation**

As part of its annual planning, each regional permitting program will screen all permits<sup>3</sup> for which the program intends to issue a draft permit that year. In EPA Region 1, the majority of the permits EPA issues are National Pollutant Discharge Elimination System (NPDES) permits in Massachusetts and New Hampshire. This plan is intended to apply to these permits. Although not permitting decisions, EPA Region 1 also will screen approvals to cleanup polychlorinated biphenyls (PCBs) as a part of this plan.

Finally, consistent with the list of priority permits identified in "Actions that EPA Regional Offices Are Taking to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities," EPA will screen the following additional categories of new permits and permit renewals if any program intends to issue a draft permit that year in areas

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<sup>1</sup> Available at [www.epa.gov/environmentaljustice/plan-ej/permitting.html](http://www.epa.gov/environmentaljustice/plan-ej/permitting.html).

<sup>2</sup> The term "overburdened" describes minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards. This increased vulnerability may be attributable to an accumulation of negative and lack of positive environmental, health, economic, or social conditions within these populations or communities.

<sup>3</sup> This plan applies only to EPA-issued permits. The decision to apply this plan to permits that EPA issues jointly with state, local, or tribal permitting authorities will be made on a case-by-case basis.

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where EPA remains the permitting authority (such as the Outer Continental Shelf or in Indian country):

- Construction permits under the Clean Air Act, especially new major sources (or major modifications of sources) of criteria pollutants;
- Significant Underground Injection Control Program permits under the Safe Drinking Water Act;
- RCRA permits associated with new combustion facilities or modifications to existing RCRA permits that address new treatment processes or corrective action cleanups involving potential off-site impacts.

### **Approach to EJ screening**

EJ screening is the use of available environmental and demographic information to highlight locations where additional review (e.g., information collection or analysis) may be warranted. EJ screening results in a preliminary characterization of potential impacts on the population, including low-income and/or minority populations, and potential environmental and health impacts that may fall disproportionately on them.

EPA is now beta-testing a nationally consistent screening tool, called EJSCREEN. EJSCREEN is a geospatial tool that contains demographic and environmental data for the United States at the census block group level. The environmental factors include: (1) PM 2.5 Level in Air; (2) Ozone Level in Air; (3) Diesel Particulate Matter Level in Air; (4) Air Toxics Cancer Risk; (5) Air Toxics Neurological Hazard Index; (6) Air Toxics Respiratory Hazard Index; (7) Traffic Proximity and Volume; (8) Lead Paint Indicator (% pre-1960); (9) Risk Management Plan Facility Proximity; (10) Superfund Site Proximity; (11) Treatment Storage Disposal Facility Proximity; and (12) Major Direct Dischargers to Water Proximity. In addition to environmental factors, the tool also uses two primary demographic factors, specifically, percentage of the population that is minority and percentage of population that is and low-income. EJSCREEN also includes information about linguistic isolation, population over age 64, population under age 5, and population with less than a high school education. EJSCREEN also creates indexes, which combine each environmental indicator with the two primary demographic factors, to provide a measure of how much each block group contributes to disparity between demographic groups nationwide.

Region 1 will use EJSCREEN and other readily available sources of information, including known community concerns, to perform initial EJ screening of permits. As a pre-decisional tool, EJSCREEN will be used to highlight candidates for additional review where enhanced outreach may be warranted. Additional review includes consideration of additional available information and data unique to an area and that may capture environmental and demographic factors more holistically. EJSCREEN is not designed to conclusively determine whether or not disproportionately high and adverse impacts in fact exist.

In cases where EJSCREEN is not appropriate for use in screening because the relevant data were not available for the area, the region will complete a similar screening by reviewing available demographic and environmental data. EPA expects that in most circumstances EJSCREEN will be the appropriate tool for initial screening.

## **Internal Coordination and Additional Analysis**

Using the results from the preliminary screen, the permitting office will conduct an annual planning meeting with OCRUA, where the regional EJ program resides, and the Office of Public Affairs. Preliminary screening results and additional information will be presented for discussion. OCRUA will provide information on the affected community, where possible. The permitting program will provide information about the nature of the environmental impacts due to the discharges or emissions covered by the permit.

## **Prioritization**

If significant public health or environmental impacts on potentially already overburdened communities resulting from discharges to be permitted are identified during the planning meeting or its follow up, the region will implement enhanced activities throughout the permitting process for those permits to the extent available resources allow. The region will focus on permits impacting overburdened communities that regulate activities that may lead to impacts on human health and the environment. The permitting program and OCRUA will discuss prioritizing applying enhanced activities to permits that may involve activities with significant public health or environmental impacts on already overburdened communities based on factors such as the scope of the permitted activity; the nature of the environmental issue; the extent of EJ concerns, including concerns raised by the community; the availability of resources; and any other applicable factors.

For each permit that is selected for enhanced community outreach during the annual planning meeting, the permitting program will work with OCRUA and the Office of Public Affairs to develop an approach to enhanced outreach that is appropriate for each permit. The development of an approach will include a discussion about which office will contribute the resources that will be necessary for the enhanced outreach. This Plan begins to identify Program Leads in the section below. To the extent that tribal interests are associated with a priority permit, the region will include tribal consultation as a part of any outreach, consistent with the agency's tribal consultation policy.

## **Enhanced Activities**

Listed below is a menu of options the region could undertake to consider environmental justice concerns in the public participation context. The region may not adopt all of the activities listed. Similarly, the list of activities is not meant to be comprehensive or exhaustive of actions. Different situations will justify different responses.

The enhanced procedures may elicit information indicating that the permit terms should be designed to address specific environmental justice concerns. This plan does not cover the content of the permit.

- **Increase internal oversight**
  - Increase oversight for the permit, including the coordination of any parallel EPA permits pending in other programs. (*Lead: Permitting Program*)

- Initiate coordination with OCRUA to be continued throughout the permitting process. (*Lead: Permitting Program*)
- **Planning & Gathering Information**
  - Identification of the impacted community (e.g. identify local neighborhood and religious institutions, schools and sensitive receptors such as day care centers and clinics and hospitals, local businesses, community based organizations and environmental organizations; identify community's demographics including: age, income, language, population, race/ethnicity, and economic status; identify environmental and public health concerns related to the permit, etc.). (*Lead: OCRUA*)
  - Consider holding information meetings with the community. (*Lead: OCRUA with support from Office of Public Affairs, respectively*)
  - Coordinate with state, local, and/or tribal authorities in appropriate circumstances (*Lead: Permitting Program*)
- **Encourage enhanced activities by applicant**
  - Encourage the applicant or permittee to provide EPA with a plain-language description of its proposed project. (*Lead: Permitting Program*)
  - Encourage the applicant or permittee to consult EPA guidance on environmental justice including the Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line and other resources developed under Plan EJ 2014. (*Lead: Permitting Program*)
- **Provide the public with information regarding the proposed permit**
  - Ensure that public notices reach the impacted community and are written in plain language. (*Lead: Office of Public Affairs with support from OCRUA*)
  - Ensure public documents are accessible to the community, beyond public notice requirements. (*Lead: Office of Public Affairs and OCRUA*)
  - Use communication techniques the community values, such as direct mailings, articles in local newspapers, emails to list serves. (*Lead: Office of Public Affairs with support from OCRUA*)
  - Extend the public comment period, when appropriate. (*Lead: Permitting Program*)
  - Provide staff to respond to community concerns, especially those related to the permit and about environmental justice. (*Leads: Permitting Program and OCRUA*)
- **Plan for a public hearing** (*Lead: Office of Public Affairs*)
  - Hold public meetings at times and places in the community best designed to afford the public a meaningful chance to attend.
  - Offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents) when appropriate and allowed by our budget in accordance with the Region's Limited English Proficiency Plan.
- **Ensure appropriate follow-up with community stakeholders**
  - After the permit has been issued, make available to the community a summary of EPA's comment response and provide information on where the community can find the entire comment response document. (*Permitting*)

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*Program will respond to comments about permit. OCRUA will respond to comments unrelated to the permit. )*

**Progress Review**

Region 1 will periodically review progress and share lessons learned with other regions and headquarters in carrying out the enhanced outreach provided in this plan.