



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20585-0001

May 10, 1996

Mr. Zach Church  
Office of Management and Budget  
Executive Office of the President  
Washington, D.C. 20503

Re: LRM No. 4130--CEQ Proposed Guidance on Environmental Justice

Dear Mr. Church:

The staff of the Nuclear Regulatory Commission (NRC) offers the following comments on the proposed Council on Environmental Quality guidance.

GUIDANCE DOCUMENT

On page 2 of the proposed guidance, the second bullet recognizes the importance of data collection on multiple and cumulative exposures to environmental hazards and indicates that data on exposure issues should be incorporated into NEPA analysis as appropriate. The Executive Order placed an emphasis on collecting data on a long-term basis in order to build up a data base. This guidance is now suggesting that the data is to be utilized in evaluating proposed Federal actions. The guidance should make clear that agencies are not required to create data for the sole purpose of complying with the guidance.

The second bullet on page 3 and the second full paragraph on page 13 speak of mitigation measures identified as part of a finding of no significant impact (FONSI). In most, if not all, of the cases where the NRC makes a FONSI, there is no need to consider mitigation measures. The guidance should make clear that there is no need to discuss mitigation measures unless NEPA requires it.

The third new paragraph on page 5 indicates that agencies should recognize that environmental justice is highly sensitive to the "history or circumstances" of a particular community or population. Additional guidance regarding what is contemplated here would be useful.

The third bullet on page 7 and the first new paragraph on page 12 suggest that environmental justice considerations will be addressed as part of environmental assessments (EA). EAs often result in a FONSI. In such a case, since there is no significant environmental impact, there is no reason to examine environmental justice issues. This should be clarified since our experience suggests that there would be few instances warranting environmental justice consideration in an EA. A routine examination of this issue in EAs could have a significant impact on agency workload and scheduling for licensing actions.

In this same vein, throughout the document guidance is provided for actions to be taken during the scoping process. Scoping is normally performed only for environmental impact statements, not EAs. If environmental justice reviews are to be performed for EAs, guidance needs to be provided regarding the performance of such reviews without scoping.

The second sentence of the full paragraph on page 10 should be revised to add the words "the opportunity for" after the word "regulations". The sentence would thus read, "CEQ's regulations require the opportunity for comprehensive public involvement through the NEPA process." A Federal agency cannot guarantee public participation.

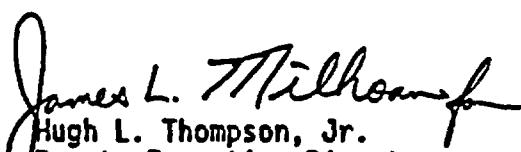
The first full paragraph on page 11 refers to the use of Landview II software. This software needs to be revised to include all of the variables addressed in the CEQ guidance.

The second full paragraph on page 11 relates to collection and analysis of data addressing "sensitive subpopulations" within the affected low-income or minority community. The NRC's normal practices do not encompass assessing impacts on subpopulations. Additional guidance on what is expected here would be useful. In addition, the paragraph provides that data on different patterns of living, should be developed when needed. Again, this is a suggestion that data be developed for particular projects, rather than to compile a general data base. In addition, clarification is required regarding whether such data is to be collected throughout the life of the project or only for the purposes of evaluating whether the project should be approved. If it is the former, this provision could be quite costly to implement.

#### APPENDIX A

The definition of "minority population" on page 2 should recognize that some individuals may qualify as a minority on more than one basis and that aggregations of the bases may result in double counting. This should be avoided.

Sincerely,

  
Hugh L. Thompson, Jr.  
Deputy Executive Director  
for Nuclear Materials Safety, Safeguards  
and Operations Support