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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 3, 1995

MEMORANDUM TO: William T. Russell, Director
Office of Nuclear Reactor Regulation

Carl J. Paperiello, Director
Office of Nuclear Material Safety and Safeguards

William J. Olmstead, Associate General Counsel
for Licensing and Regulation
Office of the General Counsel

Edward L. Jordan, Director
Office for Analysis and Evaluation
of Operational Data

Richard L. Bangart, Director
Office of State Programs

James Lieberman, Director
Office of Enforcement

Gerald F. Cranford, Director
Office of Information Resources Management

Carlton R. Stoiber, Director
Office of International Programs

David L. Meyer, Chief
Rules Review and Directives Branch
Division of Freedom of Information
and Publications Services
Office of Administration

FROM: David L. Morrison, Director
Office of Nuclear Regulatory Research *David L. Morrison*

SUBJECT: PROCEDURE FOR IMPLEMENTATION OF ENVIRONMENTAL
JUSTICE IN RULEMAKING

Attached for implementation within your Office is an NRC procedure signed by the Executive Director for Operations (EDO) for implementation of environmental justice in rulemaking (Attachment 1). This procedure should be followed by your staff who are assigned the responsibility for development and publication of a rule.

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The procedure calls for inclusion of new a section entitled "Environmental Justice" in environmental assessment documents and environmental impact statements prepared to support a rule. The procedure also calls for boilerplate language changes in the Federal Register notice for proposed and final rules. These changes will be incorporated in the NRC Regulations Handbook, NUREG/BR-0053.

Background: In a memorandum dated December 6, 1994 (Attachment 2), the Executive Director for Operations (EDO) directed the Office of Nuclear Regulatory Research (RES), the Office of Nuclear Reactor Regulation (NRR), and the Office of Nuclear Material Safety and Safeguards (NMSS) to prepare procedures for handling environmental justice issues in NEPA documents. [Environmental Justice means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or educational level with respect to the development, implementation, and enforcement of environmental laws, regulations and policies.] The EDO also directed the offices to coordinate the development of the procedures with the internal NRC Environmental Justice Working Group.

Attachments for your reference are Executive Order 12898 (Attachment 3), and the NRC Environmental Justice Strategy (Attachment 4).

Coordination: Prior to the EDO signing this procedure, the procedure has been coordinated with the Offices of Administration, Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, Information Resources Management, State Programs, and the Office of the General Counsel. Resources to conduct this procedure are included in the FY 1995-1999 Internal Program/Budget Review document, and no additional resources would be required for its implementation.

The attached procedure will ensure that future rules will comply with Executive Order 12898. If you have any questions regarding the procedure, please contact Naiem S. Tanious, 415-6103.

Attachments:

1. Procedure for Implementing Environmental Justice in Rulemaking w/encl.
2. Memorandum 12/6/94 from J. Taylor to Office Directors
3. Executive Order 12898 on Environmental Justice
4. The NRC Environmental Justice Strategy

Distribution: RDB\subj\rdg\central LRiani ATse TMartin NRC Environmental Justice Working Group:HThompson FMiraglia JHickey STreby AHodgdon M Lopez-Otin
 [Document: G:\Tanious\ENV-JC.FIN]

OFFICE	DRA:RDB	DRA:RDB	D:DRA	D:RES	
NAME:	NTanious	TMartin	BMorris	DMorrison	
DATE:	10/31/95	11/1/95	11/2/95	11/3/95	

ATTACHMENT 1

PROCEDURE FOR IMPLEMENTING ENVIRONMENTAL
JUSTICE IN RULEMAKING

PROCEDURE FOR IMPLEMENTING ENVIRONMENTAL JUSTICE IN RULEMAKING

BACKGROUND:

The requirement for Federal agencies to consider environmental justice is a result of the February 11, 1994, Presidential Executive Order 12898 mandating that each Federal agency "...make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations... ." The President's Executive order directs all Federal Agencies to develop, according to prescribed timetables, strategies for assuring environmental justice in their programs, policies, and activities. The Presidential memorandum to all agencies is a reminder of relevant provisions of existing law including the requirement to consider, when environmental impact statements and other environmental documents are prepared, the effects of Federal actions on minority and low-income communities. Although independent agencies, such as the NRC, were only requested to comply with the Executive Order, the Chairman, in his March 31, 1994 letter to the President, indicated that the NRC would endeavor to carry out the measures set forth in the Executive Order and the accompanying memorandum.

Executive Order 12898 created an Interagency Environmental Justice Working Group in which the NRC is a member. The NRC issued a document that contains the NRC environmental justice strategy. This document was transmitted to the Interagency Working Group (IWG) on March 24, 1995. The IWG in turn, submitted all the agencies' environmental justice strategies, including NRC's, to the President on April 11, 1995.

The NRC strategy states that Executive Order No. 12898 and the accompanying Presidential memorandum apply primarily to NRC efforts to fulfill the requirements of the National Environmental Policy Act (NEPA) which is an integral part of the NRC licensing and rulemaking processes. Moreover, the NRC strategy states that the NRC is committed to giving careful consideration to the anticipated guidelines of the Council on Environmental Quality (CEQ) on how to take environmental justice into account when preparing documents under NEPA. The final guidelines from the CEQ have not yet been published, and this procedure will be revised if necessary at that time.

In a memorandum dated December 6, 1994, the Executive Director for Operations (EDO) directed the Office of Nuclear Regulatory Research (RES), the Office of Nuclear Reactor Regulation (NRR), and the Office of Nuclear Material Safety and Safeguards (NMSS) to prepare procedures for addressing environmental justice in NEPA documents. The EDO also directed the offices to coordinate the development of the procedures with the internal NRC Environmental Justice Working Group. This procedure follows the principles outlined in the NRC Environmental Justice Strategy.

DISCUSSION:

The vast majority of NRC rules are generic. As such, these rules apply to all sites or nuclear facilities that fall under its regulatory authority. Consequently, the NRC believes that its rulemakings will raise few, if any, environmental justice issues. Environmental justice issues are site-specific by their very nature, i.e., they would arise as the result of NRC regulatory actions related to particular nuclear sites or plants. Therefore, environmental justice issues are more likely to be raised by site-specific licensing decisions rather than generic rulemaking. However, to assure that the NRC has not overlooked some aspect of a given rulemaking action which could involve environmental justice, a procedure has been developed to be incorporated into the rulemaking process. The essence of the procedure is that NRC staff responsible for rulemaking seek and welcome public comments by specifically inviting the public to comment on environmental justice as a routine matter during the rulemaking process. The procedure takes advantage of the NRC policy that all rulemaking documents, including Environmental Assessments (EAs) and Environmental Impact Statements (EISs), are routinely made available to the public and are subject to public comments. Moreover, addressing these public comments has been a normal NRC rulemaking activity.

Only a small number of NRC rules contain criteria for siting nuclear facilities. This procedure requires that, in any such rules developed or modified in the future, consideration be given to including specific language requiring that environmental justice be considered along with other applicable siting factors.

This procedure incorporates into rulemaking the following principles of the NRC Environmental Justice Strategy: integration of environmental justice into NRC's NEPA activities, continued senior management involvement, openness and clarity, and seeking and welcoming public participation.

SCOPE OF THE PROCEDURE:

This procedure, along with the generic language pertaining to environmental justice in the NRC Regulations Handbook (Enclosure), will ensure consistency in the implementation of environmental justice in matters pertaining to the development of regulations. This procedure and the NRC Regulations Handbook (NUREG/BR-0053) are applicable to all NRC staff involved in rulemaking activities.

It is expected that minimal NRC manpower/resources will be expended to implement this procedure, primarily because most rules will not require an environmental justice review (the majority of rules either fall under a categorical exclusion from requirements for environmental review or have an environmental assessment (EA) with a finding of no significant impact (FONSI)). Some staff involvement is anticipated to address public comments on environmental justice.

PROCEDURE:

1. Definitions: The following definitions may be subject to change after guidelines are issued by the CEQ or by the Environmental Justice Interagency Working Group.

Environmental Justice¹ means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or educational level with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Minority² means individuals classified by Office of Management and Budget Directive No. 15 as Black/African American, Hispanic, Asian and Pacific Islander, American Indian, Eskimo, Aleut, and other non-white persons.

Minority Population³ should be identified where either: (a) the minority population of the affected area exceeds 50 percent, or (b) the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis.

Low-income Population⁴ in an affected area can be identified by using either: (a) the Department of Health and Human Services poverty guidelines, or (b) the Department of Housing and Urban Statuary definition for very low-income for the purposes of housing benefits programs.

2. General - All Rules: Staff in all NRC Offices who are assigned rulemaking responsibility must follow this procedure when

¹ This definition is suggested by the Environmental Protection Agency's (EPA) Environmental Justice Office; it is the same definition used by the NRC Environmental Justice Strategy document approved by the Commission, and issued in a letter from Hugh L. Thompson, DECS-NRC Member, to Carol Browner, Administrator EPA-Chair, Environmental Justice Interagency Working Group, March 24, 1995.

² This definition is verbatim from the Department of Justice (DOJ) draft document entitled: "Guidance for Federal Agencies on Key Terms in Executive Order 12898," Page 2, August 8, 1995. (This draft document has not yet been made available to the public.)

³This definition is the same as that used by DOJ in its draft document, August 8, 1995.

⁴This definition is the same as that used by DOJ in its draft document, August 8, 1995.

developing rule language, Federal Register notices, and supporting NEPA documents (either the EA or the EIS).

3. General - All Rules: The NRC will integrate environmental justice in its proposed and final rules by adding new language from Sections 3.13 and 5.13 of the NRC Regulations Handbook, NUREG/BR-0053 (Enclosure), to cover environmental justice in one of the two sections normally included in the FRN under the headings: "Environmental Impact Statement: Availability," or "Finding of No Significant Impact: Availability,".
4. General - All Rules: Public comments pertaining to environmental justice on rulemaking documents should be addressed in the final FRN in the same section devoted to addressing all other types of comments received from the public on the proposed rule. The staff's discussion of environmental justice in the final FRN can be brief if the comments from the public are general-agreement type comments. If significant negative comments are received, or if the public comments uncover environmental justice questions not considered by the proposed rule, the discussion should be more extensive. The level of detail in the discussion should be comparable to the level of detail used to discuss other types of public comments that are received after issuance of a proposed rule.
5. Special Cases - Informing the Public: If it is known in advance that a particular rulemaking might impact a specific population disproportionately, the NRC staff should ensure that the population knows about the rulemaking and is given the opportunity to participate. Such actions may include translating the FRN into a language other than English for publication in a local newspaper and holding public outreach meetings in the affected areas.
6. Special Cases - Environmental Assessments (EAs) and Environmental Impact Statements (EISs): If an EA, EIS, or GEIS is prepared, it must contain a section entitled "Environmental Justice". If an EIS or GEIS is prepared, the staff is required by 10 CFR 51.26 to publish in the Federal Register a notice of intent to prepare an EIS and to conduct a scoping process. If a finding of no significant impact (FONSI) is made, a discussion in the Environmental Justice section must include a summary of the FONSI conclusion and a statement that, as a result of the finding, no environmental justice issues were found to exist. Rules that fall under the categorical exclusions listed in 10 CFR 51.22(c) do not require preparation of an EA or EIS. To assure participation of minority and low-income populations in a scoping meeting, the staff should take additional steps to ensure that representative population groups are adequately informed and are given the opportunity to participate as discussed in item #5, above.

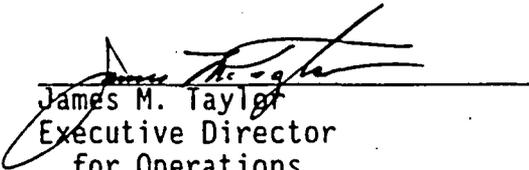
When the staff prepares a final EIS or GEIS, the environmental justice section should be revised according to the comments

received and the staff's evaluation of these comments. The staff's conclusions about environmental justice should also be included. The level of detail used to discuss the comments in the GEIS will depend on the public's interest and the validity of the comments.

7. Special Cases - Environmental Justice Analysis: In special cases where rulemaking may have direct environmental justice implications effecting specific site(s), an environmental justice analysis should be considered. The decision to prepare this analysis will be made at the branch chief level or higher. This analysis will normally be part of an EIS or GEIS and should include: (1) an assessment of the environmental impacts expected from the proposed action (input from the public should be provided from the public scoping process); (2) identification of the specific areas of environmental impact site or sites;⁵ (3) identification of the geographic area that encompasses all affected sites (for example a county or group of counties); (4) information leading to the conclusion that the percentage of one or more minority and low-income populations in the impacted sites and in the effected geographic area either exceeded 50 percent or is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis; ; and (5) identification of any factors which would cause environmental impacts on minority or low-income groups to differ from the impacts on the general population. Other variables may be included in the analysis, as appropriate. The NRR and NMSS procedures for environmental justice should be consulted as additional guidance for performing this analysis. Demographic (census) data for the above analysis should be obtained from the U.S. Census Bureau. The objective of this analysis is to assess whether minority or low-income populations are receiving disproportionately high and adverse health and environmental effects as a result of the NRC proposed rulemaking action. If disproportionately high and adverse effects are determined to exist on minority and low-income populations, discussions should include any credit that may be taken as a result of mitigative measures.

⁵ The boundary of an environmental impact site can be circular with the site at the center, or it can have an irregular shape on the basis of the prevailing wind, nearby lakes, rivers, streams, and other topographic and meteorological conditions. More than one environmental impact site may exist. The objective of the environmental justice analysis is to evaluate the areas, communities, or neighborhoods that may be disproportionately impacted. Therefore, areas for the analysis should be selected to achieve that goal (i.e., if impacts are predicted to 5 miles, a 5 miles radius should be used.) Also, the EPA is currently using 1 square mile and 50 square miles areas for their environmental justice analysis for each site. These EPA numbers may be modified, as appropriate.

8. Special Cases - Siting Criteria Rules: When a rule is being modified or developed that contains siting evaluation factors or criteria for siting a new facility, the staff should consider including specific language in the rule or supporting regulatory guidance to require an environmental justice analysis by those individuals or entities who will be regulated by the rule, i.e., those who will site, build, and operate the facility. The proposed rule could state the types of variables that would be used in the analysis (similar to the considerations listed in step 7, above) and clarify that the objective of the analysis is to determine whether there will be any disproportionate and adverse environmental impact on minority or low-income populations as a result of siting the facility.



James M. Taylor
Executive Director
for Operations

Enclosure:
Replacements for NEPA Language
in NRC Regulations Handbook

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Original signed by
James M. Taylor

James M. Taylor
Executive Director
for Operations

Enclosure:
Replacements for NEPA Language
in NRC Regulations Handbook

RECORD NOTE: A copy of this package has been sent to OC and IG
for information on: _____.

[Document Name: G\Tanious\EJ-RV3.NRC]

*See previous concurrences

OFFICE	DRA:RDB*	DRA:RDB*	D:OSP*	D:DRA*	
NAME:	NTanious /jw	TMartin	MLopez-Otin	BMorris	
DATE:	09/25/95	09/27/95	08/08/95	10/04/95	
OFFICE	D:IRM*	D:NRR*	D:NMSS*	D:ADM*	
NAME:	GCranford	WRussell	CPaperiello	PNorry	
DATE:	09/19/95	09/15/95	09/14/95	09/12/95	
OFFICE	GC*	D:OSP*	D:RES*	DEDO/EJIWG	EDO
NAME:	KCyr	RBangart	DMorrison	HThompson	JTaylor
DATE:	09/21/95	09/11/95	10/06/95	10/20/95	10/24/95

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James M. Taylor
Executive Director
for Operations

Enclosure:
Replacements for NEPA Language
in NRC Regulations Handbook

RECORD NOTE: A copy of this package has been sent to OC and IG for information on: Sept 6, 1995.

[Document Name: G\Tanius\EJ-RV3.NRC]

*See previous concurrences

OFFICE	DRA:RDB	DRA:RDB	D:OSP*	D:DRA	
NAME:	NTanius /jw	TMartin	MLopez-Otin	BMorris	
DATE:	09/25/95	09/27/95	08/08/95	08/4/95	
OFFICE	D:IRM*	D:NRR*	D:NMSS*	D:ADM*	
NAME:	GCranford	WRussell	CPaperiello	PNorry	
DATE:	09/19/95	09/15/95	09/14/95	09/12/95	
OFFICE	GC*	D:OSP*	D:RES	DEDO/EJIWG	EDO
NAME:	KCyr	RBangart	DMorrison	HThompson	JTaylor
DATE:	09/21/95	09/11/95	09/6/95	09/ /95	09/ /95

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Enclosure

Proposed Replacements for NEPA Language
in the NRC Regulations Handbook

New Sentences in Bold

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. (Include a discussion that briefly presents the reasons why the action will not have any significant environmental impact, summarize the environmental assessment, and notes any other related environmental documents).

As discussed above, the determination of this Environmental Assessment is that there will be no significant offsite impact to the public from this action. However, the general public should note that the NRC welcomes public participation. Also, the NRC has committed itself to complying in all its actions with the Presidential Executive Order # 12898-Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994. Therefore, the NRC also has determined that there are no disproportionate, high and adverse impacts on minority and low-income populations. In the letter and spirit of Executive Order # 12898, the NRC is requesting public comments on any environmental justice considerations or questions that the public thinks may be related to this proposed rule but somehow were not addressed. The NRC uses the following working definition of environmental justice: environmental justice means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income or educational level with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Comments on any aspect of the EA including environmental justice may be submitted to the NRC as indicated under the ADDRESSES heading.

Also, the NRC has sent a copy of the Environmental Assessment and this proposed rule to every State Liaison Officer and requested their comments on the Environmental Assessment.

The Environmental Assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from (insert name, address, and telephone number of contact person).

as a result
this finding

Proposed Replacement for Proposed Rules on
Page 52 in the NRC Regulations Handbook

New Sentences in Bold

Environmental Impact Statement: Availability

As required by the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, the NRC has prepared a draft environmental impact statement on this proposed rule.

The draft environmental impact statement is available for inspection in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Single copies of the draft environmental impact statement may be obtained from (Name, address and telephone number of contact person).

The NRC requests public comment on the draft environmental impact statement, including any environmental justice considerations related to this proposed rule. The NRC has committed itself to complying in all its actions with the Presidential Executive Order # 12898-Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994. The NRC uses the following working definition of environmental justice: environmental justice means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income or educational level with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Comments on any aspect of environmental justice may be submitted to the NRC as indicated under the ADDRESSES heading.

Also, the NRC has sent a copy of the Environmental Impact Statement and this proposed rule to every State Liaison Officer and requested their comments on the draft statement.

The Environmental Impact Statement is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental impact statement is available from (insert name, address, and telephone number of contact person).

Note: Availability of the draft environmental impact statement must also be indicated under the ADDRESSES caption of the preamble.

Proposed Replacement for Final Rules language on
Page 144 in the NRC Regulations Handbook

New Sentences in Bold

Finding of No Significant Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. (Include a discussion that briefly presents the reasons why the action will not have any significant environmental impact, summarizes the environmental assessment, and notes any other related environmental documents).

The NRC requested public comments on any environmental justice considerations that may be related to this rule. [indicate whether the public comments have been addressed, moreover whether the EA has changed as a result of the public comments].

Also, the NRC requested the views of the States on the Environmental Assessment for this rule. [indicate whether the States comments have been addressed, moreover whether the EA has changed as a result of the States comments].

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from (insert name, address, and telephone number of contact person).

Note: Availability of the environmental assessment and finding of no significant impact must also be listed under the ADDRESSES caption of the preamble.

Proposed Replacement for Final Rules Language on
Page 143 in the NRC Regulations Handbook

New Sentence in Bold

Environmental Impact Statement: Availability

As required by the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, the NRC has prepared a final environmental impact statement for this regulation.

The NRC requested public comments on environmental justice issues for this rule. [indicate whether the public comments have been addressed, moreover whether the EIS has changed as a result of the public comments].

The NRC requested the views of the States on the Environmental Impact Statement for this rule. [indicate whether the States comments have been addressed, moreover whether the EIS has changed as a result of the States comments].

The final environmental impact statement is available for inspection in the NRC public document room, 2120 L Street, NW (Lower Level), Washington, DC. Single copies of the final environmental impact statement are available from (Name, address, and telephone number of contact person).

Note: Availability of the environmental impact statement must also be indicated under the ADDRESS caption of the preamble.

ATTACHMENT 2

TAYLOR (EDO) MEMO TO RUSSELL (NRR), BECKJORD (RES)
AND BERNERO (NMSS), DTD DECEMBER 6, 1994



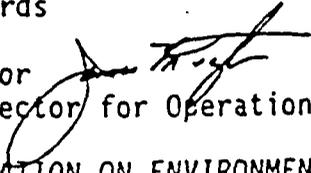
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

- Decemb. 6, 1994

MEMORANDUM TO: William T. Russell, Director
Office of Nuclear Reactor Regulation

Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

✓ Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

FROM: James M. Taylor 
Executive Director for Operations

SUBJECT: STATE CONSULTATION ON ENVIRONMENTAL ASSESSMENTS

In a letter dated April 2, 1993, (Attachment 1), the NRC committed to the Council on Environmental Quality (CEQ) that it would consult with the States on environmental issues before issuing an environmental assessment (EA) and that such contact would be documented in the EA. This commitment was made in response to concerns expressed by CEQ in a letter dated December 1, 1992, (Attachment 2).

Within 3 months of the date of this memorandum, each office shall develop procedures that ensure future EAs will comply with the commitment made to CEQ and shall confirm by memorandum to Martin Malsch in the Office of the General Counsel (OGC) that the necessary internal procedures have been implemented. This memorandum should also identify the office contact responsible for the procedure and other environmental issues.

Since the Office of Nuclear Regulatory Research has primary responsibility for rulemaking, it should prepare the procedure for consulting on rulemaking EAs. The procedure should be coordinated with the Office of Nuclear Reactor Regulation and the Office of Nuclear Material Safety and Safeguards before it is finalized.

CONTACT:
S. Hoffman, NRR:PDLR
504-3745

Multiple Addressees

- 2 -

In all cases, the staff shall coordinate with OGC when developing the office procedures to ensure that the new or revised procedures meet the NRC commitments to CEQ. Questions concerning the commitments made to CEQ should be directed to Hampton Newsome in OGC at 504-1623, Room 0-16F17.

In addition, the NRC anticipates guidance from the CEQ on how to take environmental justice into account when preparing documents under NEPA. Until this guidance is received, all offices will develop a procedure that addresses where environmental justice is handled in NEPA documents and coordinate such procedure with the internal NRC Environmental Justice Working Group. (2)

Attachments: 1. April 2, 1993, Letter
2. December 1, 1992, Letter

cc: K. Cyr, OGC
R. Bangart, OSP
Regional Administrators

ATTACHMENT 3

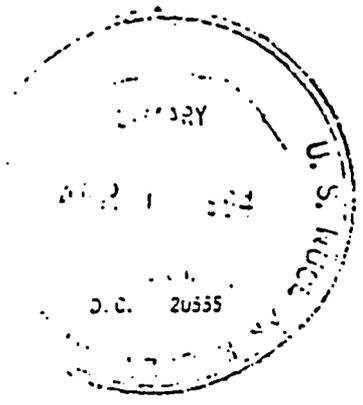
EXECUTIVE ORDER 12898 ON ENVIRONMENTAL JUSTICE

E
2nd
Office

Weekly Compilation of
**Presidential
Documents**



Monday, February 14, 1994
Volume 30—Number 6
Pages 217–282



1-103 Development of Agency Strategies.

(a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific

projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. Reports to the President. Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. Federal Agency Responsibilities for Federal Programs. Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3-3. Research, Data Collection, and Analysis.

3-301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the

opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever

practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with States, local, and tribal governments.

Sec. 4-4. Subsistence Consumption of Fish and Wildlife.

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. Public Participation and Access to Information. (a) 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.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the com-

ments and receive public meetings.

Sec. 6-6. General.

6-601. Representation. The shall be responsible with this order conduct internal steps as may be in accordance with this order.

6-602. Executive Order. Executive order but not super 12250, which relative implementation including discriminatory receiving Federal herein shall include Executive Order

6-603. Executive Order. Executive order: effect or mandate 12875.

6-604. Scope. Federal agency Working Group may be designated conducts any Federal substantially affect environment. It is requested to concur order.

6-605. Petition. Petition of a Federal agent for an execution of this order or of the petition activities should be in accordance with this order.

6-606. National. Federal agency this order shall include Indian programs of the Intertribal Working Group tribal leaders taken pursuant Federally-received

6-607. Cost. by law. Federal financial costs

ments and recommendations discussed at the public meetings.

Sec. 6-6. General Provisions.

6-601. Responsibility for Agency Implementation. The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. Executive Order No. 12250. This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. Executive Order No. 12875. This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. Scope. For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. Petitions for Exemptions. The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. Costs. Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608 General Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or non-compliance of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton

The White House,
February 11, 1994.

[Filed with the Office of the Federal Register, 3:07 p.m., February 14, 1994]

Note: This Executive order was published in the *Federal Register* on February 16.

Memorandum on Environmental Justice

February 11, 1994

Memorandum for the Heads of All Departments and Agencies

Subject: Executive Order on Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Today I have issued an Executive order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. That order is designed to focus Federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice. That order is also intended to promote nondiscrimination in Federal programs substantially affecting human health and the environment, and to provide minority communities and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.

The purpose of this separate memorandum is to underscore certain provision of existing law that can help ensure that all communities and persons across this Nation live in a safe and healthful environment. Environmental and civil rights statutes provide many opportunities to address environmental hazards in minority communities and low-income communities. Application of these existing statutory provisions is an important part of this Administration's efforts to prevent those minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.

I am therefore today directing that all department and agency heads take appropriate and necessary steps to ensure that the following specific directives are implemented immediately:

accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.

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 the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 4321 *et seq.* Mitigation measures outlined or analyzed in an environmental assessment, environmental impact statement, or record of decision, whenever feasible, should address significant and adverse environmental effects of proposed Federal actions on minority communities and low-income communities.

Each Federal agency shall provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices.

The Environmental Protection Agency, when reviewing environmental effects of prop-

posed action of other Federal agencies under section 309 of the Clean Air Act, 42 U.S.C. section 7609, shall ensure that the involved agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social, and economic effects.

Each Federal agency shall ensure that the public, including minority communities and low-income communities, has adequate access to public information relating to human health or environmental planning, regulations, and enforcement when required under the Freedom of Information Act, 5 U.S.C. section 552, the Sunshine Act, 5 U.S.C. section 552b, and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11044.

. . .

This memorandum is intended only to improve the internal management of the Executive Branch and is not intended to nor does it create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

William J. Clinton

Digest of Other White House Announcements

The following list includes the President's public schedule and other items of general interest announced by the Office of the Press Secretary and not included elsewhere in this issue.

February 6

In the afternoon, the President traveled to Houston, TX, and remained overnight.

February 7

In the afternoon, the President toured the Lyndon B. Johnson Space Center. In the evening, he traveled to Shreveport, LA, and remained overnight.

February 8

In the afternoon, the President returned to Washington, DC.

The White House sent a request for additional funds to aid in their flood recovery.

Nominations Submitted to the

The following list includes members of the United States Service Academies and Foreign Service officers.

Submitted February

Guido Calabresi, of Connecticut, to the Second Circuit, retired.

Robert Harlan Hooper, of Oklahoma, to the Tenth Circuit, retired.

Frank M. Hull, of Georgia, to be Northern District of Georgia, retired.

W. Louis Sands, of Georgia, to be Middle District of Georgia, retired.

Sheldon Whitehouse, of Rhode Island, to be District of Rhode Island, retired. Lincoln C. Al-

Checklist of White House

The following list includes items not covered in Other White House Announcements.

Released February

Announcement of the fiscal year 1995 budget and House and Cabinet

This release was prepared in the appropriate

ATTACHMENT 4

THE NRC ENVIRONMENTAL JUSTICE STRATEGY



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555-0001

March 24, 1995

Carol Browner, Chair
Environmental Justice Interagency
Working Group
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20451

Dear Ms. Browner:

The enclosed Environmental Justice Strategy is provided by the Nuclear Regulatory Commission (NRC) in accordance with the President's Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." Also enclosed is a description of specific current projects where NRC is addressing environmental justice.

If you have any questions, I can be reached at (301) 415-1713.

Sincerely,

A handwritten signature in cursive script that reads "Hugh L. Thompson, Jr." The signature is written in dark ink and is positioned above the typed name.

Hugh L. Thompson, Jr. NRC Member
Environmental Justice Interagency
Working Group

Enclosures:
As stated

U.S. NUCLEAR REGULATORY COMMISSION
ENVIRONMENTAL JUSTICE STRATEGY
MARCH 1995

Introduction:

The Nuclear Regulatory Commission (NRC) was created by the Energy Reorganization Act of 1974 as an independent regulatory agency. The mission of the NRC is to assure that civilian uses of nuclear materials in the United States---in nuclear power plants, fuel cycle plants, and in medical, industrial and research applications---are carried out with proper regard for the protection of the public health and safety, of the environment and of national security. The NRC is not a "land management" agency, i.e., it neither sites, owns, nor manages facilities or properties. Therefore, the President's February 11, 1994, Executive Order "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" and the accompanying Presidential memorandum have been determined to primarily apply to our efforts to fulfill the requirements of the National Environmental Policy Act (NEPA) as an integral part of NRC's licensing process.

In this regard, the NRC is committed to giving careful consideration to the Council on Environmental Quality (CEQ) guidelines on how to take environmental justice¹ into account under NEPA. However, pending receipt of these guidelines, the NRC has developed its initial environmental justice implementation strategy based on the five principles discussed below.

Background:

The President's Executive Order directs all Federal agencies to develop, according to prescribed timetables, strategies for assuring environmental justice in their programs, policies, and activities. The Presidential memorandum to all agencies is a reminder of relevant provisions of existing law, including the requirement to consider, when environmental impact statements and other environmental documents are prepared, the effects of Federal actions on minority and low-income communities. Although independent agencies, such as the NRC, were only requested to comply with the Executive Order, the Chairman, in his March 31, 1994 letter to the President, indicated that the NRC would endeavor to carry out the measures set forth in the Executive Order, and the accompanying memorandum.

¹ For purposes of this document, the NRC is using the following working definition of environmental justice: environmental justice means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income or educational level with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

Principles of Environmental Justice Implementation:

The goal of the NRC's Environmental Justice Implementation Strategy is to integrate environmental justice into the conduct of all pertinent activities at the agency primarily in the NRC's fulfillment of its NEPA responsibilities. The Strategy contains five principles of implementation. The first three principles are institutional in nature and serve as the foundation for the last two principles which are operational in nature, i.e., they address specific activities. The principles emulate the "Principles of Good Regulation" which have been part of NRC policy for several years.

Integration of Environmental Justice into NRC's NEPA Activities

NRC is committed to integrating environmental justice into NRC's NEPA activities. Greater emphasis will be placed in discussing impacts on minority and low-income populations when preparing agency NEPA documents such as Environmental Impact Statements (EIS), supplemental EISs, and where appropriate, Environmental Assessments.

Continue senior management involvement

The NRC Environmental Justice Group, whose members are senior agency officials, will continue to provide guidance in this area. An Environmental Justice Coordinator has been appointed to ensure appropriate policy information flow among the different entities within the NRC, as well as with outside interested members of the public.

Openness and Clarity

Nuclear regulation is the public's business, and must be transacted publicly and candidly. Agency positions should be readily understood and easily applied.² This is of particular import when dealing with environmental justice issues.

Seeking and Welcoming Public Participation

The NRC maintains regular communication with a broad spectrum of entities, such as the States, Indian Tribes, members of the public and other Federal agencies. Outreach programs such as the Enhanced Participatory Rulemaking, open meeting policy, and scheduled meetings with Agreement States are being implemented. The NRC management is committed to improving our outreach efforts with stakeholders, including minority and low-income communities, and welcoming their input.

² From the agency's "Principles of Good Regulations" issued in January 17, 1991, announcement #6.

Continue Review and Monitoring of Title VI Activities

The NRC's financial assistance programs under Title VI of the Civil Rights Act of 1964 are limited to funding training and travel under Section 274 of the Atomic Energy Act of 1954 as amended, in connection with States assuming certain regulatory authority over specified nuclear materials, and the award of grants for the support of basic and applied scientific research and for the exchange of scientific information. 10 CFR Part 4 calls for nondiscrimination with respect to race, color, national origin and sex in any program or activity receiving Federal financial assistance from the NRC. NRC is committed to monitoring this activity.

Implementation:

The NRC's statutory offices---the Office of Nuclear Reactor Regulation which regulates nuclear power plants and research reactors; the Office of Nuclear Material Safety and Safeguards which regulates materials uses, fuel cycle facilities and waste disposal facilities; and the Office of Nuclear Regulatory Research responsible for rulemakings and confirmatory research---will assess their existing environmental activities and integrate environmental justice into these activities, as appropriate.

SPECIFIC PROJECTS WHERE NRC IS ADDRESSING
ENVIRONMENTAL JUSTICE

- The staff of the Office of Nuclear Reactor Regulation (NRR) recently performed an evaluation of environmental justice in preparing its draft supplement to the Final Environmental Statement Related to the Operation of Watts Bar Nuclear Plant Units 1 and 2. The environmental justice review was performed in two phases. In the first phase, the staff reviewed recent economic, racial, and ethnic information for the Watts Bar Nuclear (WBN) Plant region and concluded that the WBN Plant is located in a predominately non-minority, low-income area. Input to the staff's evaluation was solicited from the public during the public comment period. No comments were received on environmental justice. The staff then considered in the second phase whether the low-income community near the WBN Plant is expected to experience disproportionately high and adverse human health or environmental effects and concluded the community would not experience such impacts. The Environmental Protection Agency did not comment on environmental justice during its review of the draft supplement. The WBN site review is providing the NRC with a means to begin assessing the effectiveness of its NEPA process in addressing environmental justice issues in its licensing activities. Additionally, the "Environmental Standard Review Plan for the Environmental Review of Construction Permit Applications for Nuclear Power Plants," ESRP (NUREG-0550), will include staff review guidance on evaluation of environmental justice. NRR intends to utilize workshops and media announcements to solicit input from affected minority communities. NRR anticipates gaining considerable information in this project relative to demonstrating the feasibility of addressing environmental justice issues.
- NRR conducts an extensive public scoping process (i.e., workshops, local town meetings, etc.) in the preparation of environmental impact statements for major licensing actions in order to solicit input from the public on the issues to be reviewed. This scoping process will, to the maximum extent possible, include specific solicitations from minority and low-income communities on environmental justice issues. Additionally, environmental impact statements are published in draft in order to solicit public comments prior to the proposed actions being taken. Public comment and opportunity for hearing are solicited via Federal Register notice.
- Louisiana Energy Services (LES) applied to the NRC in January 1991, for a license to build a uranium enrichment plant in Claiborne Parish, Louisiana. Northern Louisiana, including Claiborne Parish, is an economically depressed area, and the proposed site is near two small communities populated almost entirely by African Americans. The Office of Nuclear Material Safety and Safeguards (NMSS) issued the Draft Environmental Impact Statement in November 1993. Since the Executive

Order had not been issued as of that date, there was no discussion of environmental justice in the Draft EIS, although there was a discussion of the socio-economic impacts of the proposed action. The Final Environmental Impact Statement was issued in August 1994. It contains a discussion of environmental justice, including a description of the surrounding neighborhoods, the site selection process and a consideration of whether there was possible discrimination in the process, and possible disproportionate impact. The statement concludes that there is no evidence of discrimination, and that there will be no significant disproportionate impacts on minorities or economically disadvantaged persons.

- The Office of Nuclear Regulatory Research (RES) is using an enhanced participatory process for developing radiological criteria for decommissioning. As part of this process, the NRC conducted a series of seven workshops from January through May 1993. Workshop participants represented a broad spectrum of interests including interests related to environmental justice.