

ENVIRONMENTAL JUSTICE PROTOCOL

(BASED ON CEQ GUIDANCE, DECEMBER 1997)

INTRODUCTION

Environmental Justice is a relatively new issue to be dealt with under NEPA; it is both a social and economic impact issue and an integral component of Public Involvement. The Council on Environmental Quality guidance in response to E.O 12898 includes specific direction on incorporating Environmental Justice considerations into various phases of the NEPA process, but no specific direction on how to incorporate such considerations into specific NEPA documents.

This protocol tracks the CEQ guidance, "Environmental Justice: Guidance under the National Environmental Policy Act," published in 1997.

ENVIRONMENTAL JUSTICE PROTOCOL

Project Name:

General Principles:

Geographic Area to be Affected: (attach map; include connected, cumulative, and similar actions)

Composition of the Affected Area:

Nature of Population	Number of Persons	Source of Data
Total Population of Affected Area		
Minority population		
Low-income population		
Indian tribes		

History of and Potential for Multiple / Cumulative Exposure to Health or Environmental Hazards:

Does the Action or Alternatives Affect:

- The community or population due to physical sensitivity to particular impacts?
- Community structure due to any disruptions associated with the action?
- The physical and social structure of the community due to the nature and degree of anticipated impact?
- Other interrelated cultural, social, occupational, historical or economic factors that may amplify the natural and physical environmental effects of the action?

Identify any Barriers to Effective Public Participation:

- Linguistic
- Cultural
- Institutional
- Geographic
- Other

Identify Methods to Overcome Barriers:

Methods used to Assure Complete Community Representation:

Community Constituency	Actions Taken to Assure Representation
etc.	

Assure Government-to-Government Contacts with Indian Tribes:

Indian Tribe	Tribal Contact	US Government Contact
etc.		

Further Considerations:

Thresholds of Significance:

Human Health / Environmental Hazard	Threshold of Significance
etc.	

Nature of Effect on Target Populations:

Nature of Population	Nature of Effect(s)	Disproportionate?
Total Population of Affected Area		
Minority Population		
Low Income Population		
Indian Tribes		

Considering Environmental Justice in the NEPA Process

1. Scoping

- Does the area affected by the proposed action (including connected, cumulative, or similar actions) include minority or low-income populations or Indian tribes?
- How will the agency's Public Involvement strategy ensure that these populations participate effectively in the scoping process?

2. Public Participation

- What specific methods are being used to contact minority, low-income and Indian populations, encourage their participation, and remove any barriers identified above?
- Are relevant portions of documents being translated for non-English speakers? [include especially the definition of Affected Environment, and the nature of any environmental impacts, mitigation, monitoring, and the ultimate decision (FONSI or ROD)]

3. Determining the Affected Environment

- Identify geographic area of analysis (including connected, cumulative, and similar actions)
- Determine appropriate scale for demographic analysis (state, county, locality, census tract, block, reservation or portion, etc.)
- Identify distinct cultural practices (subsistence hunting or fishing, use of well water in rural areas, etc.)
- Identify specific rights of Indian tribes or individuals granted by treaty, statutes, Executive Orders, or US government policies

4. Analysis

- Identify any disproportionately high human health or environmental effects on target populations
- Analyze how health and environmental effects are distributed within the affected community (using GIS or other spatial analysis tools)
- Include information obtained through public participation
- Include concise discussion in layman's language of data supporting the Environmental Justice issue and the agency conclusion

5. Alternatives

- As early as possible, encourage members of affected communities to help develop alternatives
- As early as possible, encourage members of affected communities to comment on alternatives
- In an EIS, use both distribution and magnitude of disproportionate effects to determine the “environmentally preferable alternative”
- Consider the views from affected communities
- Consider the magnitude of environmental impacts associated with alternatives that have a less disproportionate effect on such communities

6. Record of Decision

- Discuss disproportionately high adverse human health or environmental effects explicitly in the Record of Decision for an Environmental Impact Statement
- Address Environmental Justice issues when discussing whether all practicable means to avoid or minimize environmental effects were adopted
- Include discussion of how these issues are addressed in any mitigation and monitoring program summarized in the ROD
- Translate the ROD into non-technical language for non-English speakers

7. Mitigation

- Elicit views of affected populations on mitigation measures
- Consider community views in developing mitigation measures
- Do the mitigation measures identified in an EIS or as part of a FONSI reflect the needs and preferences of affected populations to the extent practicable?

Note: See the full CEQ guidance for definitions of key terms such as “low income,” “minority” and “Indian tribes.”