Environmental Justice for Tribes and Indigenous Peoples - Benefits of Meaningful Public Engagement in Environmental Programs

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Topics:

• EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples
• Strategic Opportunities for Advancing Environmental Justice
• EJ Grants
• EJSCREEN
• Promising Practices for EJ Methodologies for NEPA
• Interagency Native American/Indigenous Peoples Committee
• International Human Rights and Indigenous Rights
Environmental justice 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. EPA has this goal for all communities and persons across this nation. It 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.
EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples
EJ Policy for Tribes and Indigenous Peoples

Issued: July 24, 2014

Purpose: To clarify and integrate environmental justice principles in a consistent manner in the Agency’s work with federally recognized tribes and indigenous peoples.

Scope: Federally recognized tribes, state recognized tribes, tribal members, indigenous community organizations, Native Hawaiians, individual Native Americans, and others living in Indian country.
Policy Focuses on Four Areas

• EPA’s integration of EJ in the direct implementation of federal environmental programs in Indian country, and throughout the United States.

• EPA’s work with federally recognized tribes/tribal governments on EJ.

• EPA’s work with indigenous peoples (state recognized tribes, tribal members, indigenous community-based organizations, etc.) on EJ.

• EPA’s coordination and collaboration with federal agencies and others on EJ issues of tribes, indigenous peoples, and others living in Indian country.
Policy Content

Seventeen (17) Principles - Spread Across the Four Focus Areas:

- Direct Implementation (7)
- Engaging Federally Recognized Tribes (3)
- Engaging Indigenous Peoples (4)
- Intergovernmental Coordination (3)

Two additional Policy components:

- Importance of the articles in the UN Declaration on the Rights of Indigenous Peoples that pertain to the Agency’s mission and authorities.
- Integration of traditional ecological knowledge into Agency’s science, policy and decision-making processes.
Direct Implementation Principles – Examples

• being responsive to the EJ concerns of federally recognized tribes, indigenous peoples throughout the United States, and others living in Indian country

• understanding definitions of human health and the environment from the perspective of federally recognized tribes and indigenous peoples

• using legal authorities to advance environmental justice throughout the U.S. and in Indian country (EJ in permitting, EJ in EPA Actions/regulatory development, EJ in NEPA, EJSCREEN, etc.)
Engaging Federally Recognized Tribes – Examples

- affirming the right of the tribal governments to self-determination acknowledging the federal government’s trust responsibility to federally recognized tribes

- supporting the integration of environmental justice principles and programs into tribal government programs, policies, and activities (i.e. public participation capacity building assistance through the Indian General Assistance Program, EJ Small Grants/Cooperative Agreements, etc.)
Engaging Indigenous Peoples - Examples

- developing and maintaining relationships, having open communication, and providing meaningful involvement opportunities with indigenous peoples and communities.

- identifying key points of contact in affected communities to facilitate meaningful involvement and fair treatment on EJ issues, and to better understand the communities.

- supporting the use of federal, tribal, and indigenous peoples’ conflict management/dispute resolution processes and traditional consensus building and decision-making practices.
Examples of Principles - Intergovernmental Coordination

- facilitating discussions among and between government entities with an interest in environmental justice issues affecting federally recognized tribes and indigenous peoples.

- encouraging federal agencies and state and local governments to incorporate environmental justice principles into their programs, policies, and activities that may affect tribes and indigenous peoples and others living in Indian country.

- collaborating with other federal agencies to leverage resources to better communicate, share information, and address environmental justice concerns of tribes and indigenous peoples (NA/IP Committee).
Policy Implementation

• Each program and regional office has an Environmental Justice Tribal and Indigenous Peoples Advisor (EJ TIPA) who is responsible for facilitating the implementation of the Policy.
  • EJTIPA for EPA Region 4 is Lisa Berrios, berrios.lisa@epa.gov

• The EJ TIPAs maintain a list of contacts for tribal government officials and indigenous peoples who have an interest in working with EPA on EJ issues.

• EJ TIPAs meet monthly to coordinate Policy implementation.

• The Policy can be found at: http://www.epa.gov/compliance/environmentaljustice/resources/policy/indigenous/ej-indigenous-policy.pdf
Strategic Opportunities

• Every EPA program and region has a responsibility for advancing Environmental Justice
• Building on past work to more fully integrate consideration of EJ throughout EPA
• Approach is collaborative; solutions are holistic
• Strive to strengthen and expand EJ partnerships with state, local, and tribal governments and indigenous populations
• Demonstrate measurable progress on significant issues, e.g. working to ensure all people served by small community and tribal systems have drinking water that meets applicable health-based standards.
Environmental Justice Grants Program

Eligible Applicants

- Incorporated non-profit organizations - including, but not limited to, environmental justice networks, faith-based organizations and those affiliated with religious institutions.

- Federally recognized tribal governments.

- Tribal/indigenous organizations.

Environmental Justice Collaborative Problem-Solving Grants Program

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Environmental Justice Small Grants Program
Environmental Justice Grants Program - Continued

**EJ Collaborative Problem Solving Grant**

**Grant Awards:** Up to $120,000.

**Timeframe:** Two-year period.

**Objective:** To develop and implement solutions that will significantly address environmental and/or public health issues at the local level by enabling community-based organizations to partner with stakeholders (e.g., industry, government and academia).


**EJ Small Grant**

**Grant Awards:** Up to $30,000.

**Timeframe:** One-year period.

**Objective:** Supports and empowers communities working on solutions to local environmental and public health issues to help communities understand and address exposure to multiple environmental harms and risks.

https://www.epa.gov/environmentaljustice/fiscal-year-2017-ej-small-grants-0

EJSCREEN
Environmental Justice Screening Tool
EJSCREEN

• EJSCREEN is an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators.

• EJSCREEN users choose a geographic area; the tool then provides demographic and environmental information for that area.

• All of the EJSCREEN indicators are publicly-available data.

• EJSCREEN simply provides a way to display this information and includes a method for combining environmental and demographic indicators into EJ indexes.
EJSCREEN includes:

• 11 Environmental Indicators
  • Examples – NATA respiratory hazardous index, lead paint, proximity to NPL sites

• 6 Demographic Indicators
  • Examples – percent low income, individuals over age 64

• 11 EJ Indexes
  • Examples – proximity to major direct water dischargers, particulate matter
EJSCREEN – Continued

• Each EJ index combines demographic indicators with a single environmental indicator.

• This tool provides a number of capabilities including:
  • Color coded mapping.
  • The ability to generate a standard report for a selected area.
  • Comparisons showing how a selected area compares to the state, EPA region or the nation.
EJSCREEN – Continued

• EJSCREEN users should note there is substantial uncertainty in demographic and environmental data, particularly when looking at small geographic areas.

• EJSCREEN is not intended to provide a risk assessment.

• EJSCREEN does not provide data on every environmental impact and demographic indicator that may be relevant to a particular location, and data may be several years old.

• Screening results should be supplemented with additional information and local knowledge to get a better understanding of the issues in a selected location.

• EJSCREEN can be found at: https://www.epa.gov/ejscreen/what-ejscreen
Promising Practices on EJ Methodologies for NEPA

• Improve effective, efficient and consistent consideration of environmental justice issues in NEPA process through sharing of best practices, lessons learned, research, analysis, training, consultation, and other experiences of federal NEPA practitioners
Community Benefits through NEPA and Environmental Justice

Common Themes
EJ and NEPA
• Promote healthy and sustainable communities and harmony between man and nature, for present and future generations
• Analyze, inform and engage public on environmental, social and economic conditions

Environmental Reviews
Federally funded projects must consider
• Avoid, minimize, or mitigate significant and/or disproportionately high and adverse human health and environmental effects
• Prevent the denial, reduction, or significant delay in the receipt of benefits by minority, low-income and indigenous populations

Environmental Justice
Should be considered in Agency decisions
• Environmental Impact Statement
• Environmental Assessment
• Categorical Exclusion

NEPA requires Federal Agencies to consider impacts to environment and human health in decision making on federal actions
• Assessment
• Alternatives
• Mitigation

NEPA stresses meaningful public participation by impacted populations
Promising Practices Elements
Advancing EJ Through NEPA

Environmental Justice Within National Environmental Policy Act Reviews

Meaningful Engagement

Scoping

Alternatives

Affected Environment

Identify
Minority & Low-Income Populations

Impacts

Disproportionately High & Adverse Impacts

Mitigation & Monitoring
Elements of *Promising Practices*

In evaluating a federal agency action under NEPA, Agencies should consider environmental justice implications:

- Meaningful Engagement
- Scoping
- Define the Affected Environment
- Identify Low Income and Minority Populations (including tribal/indigenous)
- Develop Alternatives
- Impacts Analysis
  - Identify Disproportionately High and Adverse Impacts (DHAI)
- Mitigation and Monitoring

Meaningful Involvement

An EJ analysis that is clearly explained promotes meaningful involvement, better community engagement, and more effective decision-making.

- Be transparent with key assumptions, methods, and results
- Potential EJ implications should be clearly understood
Community Capacity Building

Workshops

- Community Specific Workshops
  - Design to meet the community needs
  - Involve communities in the planning process
  - Provide the environmental programs framework

- Include the state, local, tribes and industry (if possible) in the planning and encourage participation in the workshops
Community Capacity Building
Interagency Coordination
Native American/Indigenous Peoples Committee (NA/IP Committee)
NA/IP Committee

• The Native American/Indigenous Peoples Committee (NA/IPC) is a sub group of the Federal Interagency Working Group on Environmental Justice (EJ IWG)
• The EJ IWG is working to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of federal programs, policies, and activities on minority populations and low-income populations (including Native American/indigenous populations).
• The EJ IWG also serves to coordinate and enhance collaboration among federal agencies to address the environmental and public health concerns of low-income, minority and indigenous communities/populations.
• The NA/IPC works to effectively coordinate the efforts of federal agencies to identify and address issues of environmental justice that are of concern to federally recognized tribes, indigenous peoples, and others living in Indian country.

• For the purposes of this Committee, indigenous peoples include federally recognized tribes, state recognized tribes, tribal members, indigenous community-based organizations, Native Hawaiians, Alaska Natives, and all other Native Americans.
International Human Rights and Rights of Indigenous Peoples

The U.S. Mission to the United Nations cordially invites you to a side event on “Environmental Justice and Indigenous Peoples”

Date: Thursday, May 12, 2016
Time: 1:15 – 2:45 pm
Location: U.S. Mission to the United Nations Second Floor Auditorium First Avenue and East 45th Street New York City

This side event will explore best practices used by the U.S. government within its Environmental Justice Program to protect American Indian and Alaska Native lands, environment, public health, and cultural resources.
International Human Rights and Rights of Indigenous Peoples - Continued

EPA participates in activities pertaining to:

- **Universal Periodic Review (UPR)** [on Human Rights] - established in 2006 by the UN General Assembly as a process through which the human rights record of every UN Member State is reviewed and assessed, every four years, at the UN Human Rights Council (HRC).

- **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)** - The ICERD requires each State Party to “pursue by all appropriate means ... a policy of eliminating racial discrimination in all its forms.”

- **International Covenant on Civil and Political Rights (ICCPR)** – one of the primary human rights treaties developed after World War II, requires each State Party to respect the rights recognized in the ICCPR and to ensure that all individuals within its territory and subject to its jurisdiction have all the recognized rights without discrimination or status distinction of any kind.
International Human Rights and Rights of Indigenous Peoples - Continued

- **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)** - adopted by the UN General Assembly in 2007, the U.S. later stated its support.
  - The EPA, in its *Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples*, issued July 2014, notes the importance of the UNDRIP and the principles that are consistent with the mission and authorities of the EPA.

- **Permanent Forum on Indigenous Issues (PFII)** – The PFII was established by the UN in 2000 to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights. The PFII is one of three UN bodies that focus on indigenous peoples’ issues, which include the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur Rights of Indigenous Peoples.
  - EPA held a side-event on at the PFII on “Environmental Justice and Indigenous Peoples,” at the U.S. Mission, which explored U.S. best practices in environmental justice to protect American Indian and Alaska Native lands, environment, public health, and cultural resources.
Discussion Questions

• What benefits have other tribes found in engaging the public early and often in the implementation of their environmental programs?

• What are some reasons why tribes do not conduct public engagement and outreach in their environmental programs?

• Have their been any negative impacts from engaging the public early and often in a tribe’s environmental program implementation?

• What tools or support could EPA provide tribes to assist them in their public engagement and outreach for the effective development and implementation of their environmental program implementation?
Contact Information

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