



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

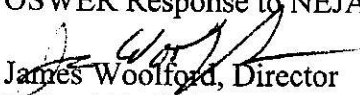
WASHINGTON, D.C. 20460

OCT 12 2005

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

MEMORANDUM

SUBJECT: OSWER Response to NEJAC Report on Federal Facilities

FROM:  James Woolford, Director
Federal Facilities Restoration and Reuse Office

TO: Barry Hill, Director
Office of Environmental Justice

In 2000, the National Environmental Justice Advisory Committee (NEJAC) established a task force to examine environmental justice concerns at Federal facilities undergoing hazardous waste cleanup work. The Task Force's Report was provided to the Office of Solid Waste and Emergency Response (OSWER) in the May 2005. My Office was assigned the lead in responding to the Report.

Since receipt of the Report, we have worked directly with the three EPA Regions (4, 6 and 10) that had Federal facilities that served as the "case studies" for the Report. We have also reached out to the Department of Energy (DOE) and Department of Defense (DoD) in formulating our response. We have forwarded the Report to the Agency of Toxic Substances and Disease Registry (ATSDR) for their consideration.

Attached is OSWER's planned response to the Report's recommendations. It also includes planned EPA regional actions. Both my Office and the EPA Regional Offices are already taking steps to implement our plan. It should be noted there are recommendations in the Report that go well beyond the scope of our Program or the Agency such as providing compensation for perceived harm from Federal facility hazardous waste releases. We are not in a position to respond to those recommendations.

If you have any questions, please contact me at 703-603-9089.

Attachments

cc: Renee Wynn, FFRRO
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U.S. ENVIRONMENTAL PROTECTION AGENCY

**Response to Recommendations National Environmental
Justice Advisory Council (NEJAC)****Report Title:**

Environmental Justice and Federal Facilities: Recommendations for Improving Stakeholder Relations Between Federal Facilities and Environmental Justice Communities (October 2004): National Environmental Justice Advisory Council (NEJAC), a Federal advisory committee.

Focus of Recommendations:

This report presents recommendations to the U.S. Environmental Protection Agency, as well as other agencies associated with the cleanup of Federal facilities, with the aim of improving relationships between facilities, communities, regulators, and governmental bodies involved in the cleanup of contaminated Federal facility sites. The report identifies five general areas for improving the relationship between Federal facilities and their affected communities and reducing the negative impacts on these communities from cleanup activities at Federal facilities. Recommendations were based on data gathered and analyzed during the site visits, as well as additional research conducted by the Federal Facilities Working Group (FFWG). The recommendations were categorized into five topic areas; A) enhanced community assessments and communication methods needed to improve cultural sensitivities for communities facing environmental justice issues; B) access to adequate health services needed; C) additional resources for capacity-building needed; D) improved and effective communication needed between facility/regulators and communities facing environmental justice issues; and E) new and consistent opportunities needed to help communities facing environmental justice issues to influence decisions at Federal facilities undergoing cleanup/remedial actions.

EPA's Response:Overview

This report represents considerable effort by the FFWG to understand and document the EJ concerns and activities of the affected communities and agencies at five Federal facility sites. EPA appreciates all of the hard work necessary to produce this report. Many of the same concerns were identified at several or, in some cases, all of the sites. The report also shows that EPA, DOD, DOE, and the affected States have mobilized significant resources to address EJ issues. According to the report, these efforts by the regulators/Federal agencies have not always been successful. The report will help EPA and, presumably, the other regulators/Federal agencies to better target scarce resources for optimal results in this important program area.

We see the recommendations of this report falling into the following three overarching categories:

- 1) Site-specific recommendations,
- 2) EPA-HQs recommendations, and
- 3) Recommendations beyond the scope of EPA.

For the site-specific recommendations, EPA-HQs held discussions with the EPA Region in which each site is located. Those Regions then provided written responses to each of the site-specific recommendations. These responses are summarized in the next section and are attached in their entirety.

The EPA-HQs recommendations are laid out in the first paragraph above. We believe the Agency can address the issues of: A) enhanced community assessments and communication methods needed to improve cultural sensitivities for communities facing environmental justice issues; C) additional resources for capacity building needed; D) improved and effective communication needed between facility/regulators and communities facing environmental justice issues; and E) new and consistent opportunities needed to help communities facing environmental justice issues to influence decisions at Federal facilities undergoing cleanup/remedial actions. Potential mechanisms to address these concerns include policy and/or guidance changes, resource redistribution, and training. EPA's Region 9 has agreed to detail a community relations expert to FFRRO to analyze potential actions we may want to take to address these recommendations.

The last category includes those recommendations considered to be beyond the scope of EPA's authority. These include health studies and compensation for perceived adverse health impacts from the contaminated sites. Recommendation B) above (i.e., access to adequate health services needed) captures these concerns. CERCLA has provisions for ATSDR to address these types of concerns. We have distributed this report to ATSDR and we will continue to work with them wherever possible to address these concerns.

Summary of Site-Specific Recommendations

A total of 32 site-specific recommendations were made for the five Federal facility sites that the FFWG visited. The recommendation themes common at virtually all the sites were better communication (including increased sensitivity and simplifying technical jargon), more resources, clarifying regulators roles and addressing health impacts. The Regions' full responses to the site-specific recommendations are attached.

Better communication between EJ communities and the regulators, as well as among different factions of communities and among the various regulators, was an oft-expressed concern. Better communication is a broad term and encompasses such needs as: 1) more training so the regulators have a better understanding of the cultural sensitivities of the communities, 2) increased efforts by the regulators to explain, both verbally at meetings and in written documents, the technical aspects of the site cleanup in terms more easily understood by the layman, and 3) increased outreach so a broader spectrum of the community than just the official citizen advisory boards are brought into the process.

The Regional responses to these recommendations described a wide-ranging array of groups and other sources which can address these concerns. Some of these organizations are currently attempting to address these issues and the Regions have committed to improving the efficacy of those efforts. Other Regional responses commit to encouraging groups/organizations to add efforts that will address the FFWG recommendations.

All of the Regions have implemented cultural sensitivity training and have committed to continuing and improving these efforts. For example, at the Defense Depot in Memphis, Tennessee (Region 4), the EPA, State, and DoD agency representatives have received EJ/Diversity/Risk Communication training through their respective agencies. These personnel recently completed refresher training specific to site issues, including Depot contractor personnel and additional, in-depth training is planned in FY 06.

Also, in Region 6 at the Fort Wingate Depot, the New Mexico Environment Department's (NMED) draft RCRA permit requires the Army to develop a Community Relations Plan that includes consultation with key stakeholders throughout the closure and corrective action processes. The key stakeholders include The Army, NMED, the Navajo Nation, Pueblo of Zuni and the Department of Interior/Bureau of Land Management. EPA will work with NMED to ensure that formal cultural sensitivity training occurs if it is requested.

Furthermore, in Region 10 at the Hanford DOE site, EPA, DOE and the State of Washington have agreed to develop a contract with the Confederated Tribes of the Umatilla Indian Reservation to set up a cultural awareness class for project managers. Several EPA project managers attended this training a few years ago and found it to be very educational and time well spent. It is anticipated that this training will be held in spring 2006 on the Umatilla Indian Reservation. In addition, the region surrounding Hanford is comprised of a large Hispanic population, particularly in the Yakima Valley, and there is the potential to develop cultural diversity training with local resources. The EPA Hanford Project Office has scheduled an environmental justice training for November 8, 2005, for Tri-Party Agreement personnel.

At several sites, efforts are underway to place additional local community members and minorities on advisory boards and state/EPA staffs.

Explaining the technical aspects of a site cleanup has always been a challenging task. With the wide range of experience and education at a typical community meeting, it is often very difficult to present and discuss technical information in a way that meets everyone's needs. All of the

Regions are focusing resources in this area with actions ranging from additional sources of funds for training workshops to developing standardized visual aids which answer common questions.

Several of the site-specific recommendations requested that more resources be made available for increased outreach to community groups to assist technical understanding and to assist in developing comments during the remedial decision-making process. Such comments can occur at several stages of the RCRA and CERCLA processes. For example, the public can comment at public meetings, at the site investigation phase, at the site feasibility study (CERCLA) or corrective measures (RCRA) phase and at the Proposed Plan (CERCLA) or Corrective Measures Implementation work plan (RCRA) phase. Besides committing to increase the scope of several existing organizations, the Regions will help community groups obtain funds through sources such as Technical Outreach Services for Communities (TOSC) and EPA's Office of Environmental Justice Small Grants Program.

Another area of commonality in the site-specific recommendations was the desire to clarify the various roles of the regulators. The procedural framework of the CERCLA and RCRA cleanup processes is often confusing and complex, especially at Federal facility sites where often two or more Federal agencies have significant roles in addition to state and local governments. The Regions have committed to developing pamphlets, handouts and/or charts to clearly explain these roles and responsibilities. These materials will be readily available for use at meetings and workshops.

Recommendations at three out of the five sites concerned the impacts of perceived health effects and/or health studies. EPA will ensure that ATSDR receives these recommendations.

Conclusion

EPA would like to thank the National Environmental Justice Advisory Council and its Federal Facilities Working Group for their efforts in producing this report. EPA-HQs and the Regions are moving to address the report's issues and concerns and we will provide periodic updates on our progress.

Background:

In May 2000, the NEJAC Executive Council recommended that a working group be established to examine these issues and prepare recommendations to address these concerns. As a result, EPA established the Federal Facilities Working Group (FFWG) to identify and prioritize key issues of concern to communities facing environmental justice issues regarding environmental cleanup activities and operations at and around Federal facilities, and to formulate a set of national *policy* recommendations to address those concerns.

The FFWG provided a forum for dialogue with appropriate government agencies to discuss ways to actively and constructively engage these communities. On December 11, 2000, DOI, DoD, DOE, and EPA signed a Memorandum of Understanding (MOU) [contained in Appendix C of

the report] to establish policies and procedures for a general working agreement among these four agencies in support of the NEJAC's FFWG.

As a part of its mission statement, the FFWG stated its plans to "go out and work with communities near Federal facilities with environmental issues (including cleanup) and speak with communities and agencies and compile information to develop and provide a small number of focused recommendations." The five site visits included: DoD's Kelly Air Force Base (San Antonio, TX), Fort Wingate (Gallup, NM), and Memphis Defense Depot (Memphis, TN); and DOE's Savannah River Site (Aiken, SC), and Hanford Site (Richland, WA). The site visits examined the quality of the relationship between the Federal facility and its nearby communities.

The FFWG developed site visit reports, which provided information on each site, and analyzed the common variables associated with the cleanup of each site, the environmental justice issues associated with each site, stakeholder participation; and key findings. The reports also provided recommendations for the stakeholder process and its implementation, presented a summary of the key site visit issues, and provided a list of "lessons learned." The site visit reports served as background information to final recommendations report.

Office[s] Leading Review:

Office of Solid Waste and Emergency Response's (OSWER) Federal Facilities Restoration and Reuse Office (FFRRO).

Points of Contact:

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