

EPA Region 5 Regional Implementation Plan to Promote Enhanced Public Participation in Permitting Activities

Introduction

Public participation in the permitting process helps to ensure that permits issued by Region 5 meaningfully consider environmental justice concerns¹ in overburdened communities.² This plan describes how Region 5 will implement the guidelines provided in “EPA Activities to Promote Environmental Justice in the Permit Application Process.”³ It covers four points:

- (1) what types of permits will be prioritized;
- (2) how these permits will be reviewed for EJ concerns;
- (3) how the Region will promote public participation where it identifies EJ concerns;
- (4) program roles and responsibilities in carrying out this plan.

This plan will be reviewed annually, and updated as needed.

Categories of Federally Issued Permits for Enhanced Public Involvement

Permitting programs will screen all applications for federally-issued permits and will prioritize actions to enhance public participation in permitting projects where EJ concerns are identified. The Region will screen new federally issued permit applications and applications for federally issued permit renewal where community members have raised plausible EJ concerns or EPA has other information indicating EJ concerns related to the permit. Specific categories of applications to be screened for EJ concerns include:

- Construction permits under the Clean Air Act, especially new major New Source Review permits, tribal minor New Source Review permits, and Title V operating permits;
- Significant Underground Injection Control Program (UIC) permits under the Safe Drinking Water Act for Class I, II, and III wells, and Class VI wells for Geologic Sequestration of CO₂
- Resource Conservation and Recovery Act (RCRA) permits for new combustion facilities or modifications to existing RCRA permits that address new treatment processes or corrective action cleanups involving likely potential off-site impacts;

¹ An “environmental justice concern” (EJ concern) is the actual or potential lack of fair treatment or meaningful involvement of minority, low-income, or indigenous populations or tribes in developing, implementing, or enforcing environmental laws, regulations, and policies.

² The term “overburdened communities” is defined in the guidelines, and refers to “minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards.”

³ Available at www.epa.gov/environmentaljustice/plan-ej/permitting.html.

- Approvals for new polychlorinated-biphenyls (PCB) commercial storage and PCB waste disposal in commercial landfills under Toxic Substances Control Act (TSCA) (Note: as used throughout this plan, the term “permits” includes such approvals.);
- “Major” industrial National Pollutant Discharge Elimination System (NPDES) permits (as defined in 40 CFR 122.2) under the Clean Water Act that are for new sources or new dischargers, or existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants;
- “Non-Major” industrial NPDES permits (as defined in 40 CFR 122.2) under the Clean Water Act that are identified by EPA on a national or regional basis as a focus area, for new sources or new dischargers, or existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants.

Region 5 will also screen permit applications where:

- Community members have expressed EJ concerns; or
- EPA has other information indicating potential EJ concerns related to the permit.

EJ Screening and Review of Federally Issued Permit Applications

EJ screening considers environmental and demographic indicators to identify geographic areas where there is a relatively high potential for EJ concerns to arise. Environmental indicators are direct or proxy estimates of pollution levels and demographic indicators are proxy estimates of a community’s vulnerability to pollution. Where screening indicates EJ concerns related to the permit application, Region 5 will review additional information as follows.

The Region will review information to understand possible environmental and human health impacts to the community from the proposed permit, as well as existing susceptibility to such impacts, so that it is prepared to address these specific concerns in our public involvement efforts and consider them as appropriate when reviewing an application for a federally issued permit. This could include:

- Location of sensitive receptors (e.g., schools and childcare centers, clinics and hospitals, local businesses)
- Demographic information that is relevant to susceptibility and potential extent of impacts, such as age, population size, race and ethnicity, and economic status
- Information relating to specific environmental and public health concerns that have been raised by the community.

The Region plans to also review information to develop an effective approach to enhancing public participation for federally issued permits with EJ concerns. This could include:

- Demographic information that is relevant to effective communication, such as primary language spoken and education level
- Information on community-based organizations and environmental organizations to include in outreach efforts, and to ask for input on the public participation approach as

needed (e.g., suitable locations for community meetings, or ways to effectively reach community members)

- Location of local neighborhood associations and religious institutions that may provide effective venues for outreach efforts.

Enhanced outreach activities

Where screening and review of an application for a new federally issued permit or renewal of an existing federally issued permit raises EJ concerns, the Region will take action to ensure meaningful public involvement in that permitting process. The following activities will be considered in the context of specific federally issued permits, taking into account all available information about the proposed project and the community:

- The Region will increase internal oversight for the EPA-issued permit, including coordination among affected offices throughout the permitting process if the facility is applying for more than one permit.
- The Region will encourage enhanced outreach by the applicant (new permits) or permittee (permit renewals). This may include encouraging the applicant or permittee to:
 - provide EPA with a plain-language description of its proposed project that can be shared with community members
 - apply EPA guidance on environmental justice, such as the “Guidance to Permit Applicants Seeking EPA-issued Permits: Ways to Engage the Communities at Your Fence-line.”
- The Region will share information about the permitting action and the proposed permit with community members, through means such as:
 - holding informational meetings, when appropriate responding to community questions and concerns, especially those of a technical nature and those about environmental justice
 - ensuring that public notices reach the impacted community and are written in plain language
 - ensuring the community has access to important public documents
 - using communication techniques the community values (such as direct mailings, articles in local newspapers, emails to list serves, etc.)
 - extending the public comment period, when appropriate responding to community questions and concerns, especially those of a technical nature and those about environmental justice.
- The Region will plan for one or more public meetings where warranted by public interest, and will:
 - seek to hold public meetings (including meetings required to meet regulatory requirements, such as hearings) at times and places in the community best designed to afford the public a meaningful chance to attend
 - offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents), when appropriate and allowed by our budget.

- The Region will ensure appropriate follow-up with community stakeholders after the permit has been issued, by providing a summary of EPA's response to comments to the community and letting community members know where they can find the full response to comments.

Roles and Responsibilities of Regional Programs

This plan applies to permitting in the following program offices: the Air Programs Branch, the UIC Branch, the NPDES Program Branch, and the RCRA Program Branch (which also issues TSCA permits).

The permit writer in each permitting program is responsible for the following actions: screening; additional review; planning for enhanced outreach when appropriate; and implementing enhanced outreach as planned. Each Branch Chief will develop appropriate procedures as needed to ensure action under this plan.

Region 5's Environmental Justice program, located in OECA, will:

- provide training on how to conduct EJ screening, as needed
- assist permitting programs as needed by facilitating contact with community and environmental justice groups
- provide support as needed to respond to community EJ concerns
- provide support as needed to identify and address potential issues in areas with EJ concerns with state and local co-regulators and other partners
- review plan implementation, including identifying any needed updates to the plan.

This document identifies internal recommended procedures for EPA employees who are staff or managers developing or issuing a permit. This document is not a rule or regulation. It does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. It does not impose any legally binding requirements.