

EPA Region 7 Regional Implementation Plan to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities

- *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. This plan 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.*

Introduction

This Implementation Plan describes the actions Region 7's permitting programs will implement when Region 7 is the permitting authority when issuing permits to promote greater participation in the permitting process by communities that have historically been underrepresented in that process. The plan is a part of EPA's continued efforts under Plan EJ 2014 to integrate environmental justice into all of its programs.

The three elements outlined in this plan are:

- (1) What types of permits will be prioritized;
- (2) Approach to EJ screening and additional analysis;
- (3) Enhanced outreach activities Region 7 will take to promote meaningful public involvement for permitting projects that may involve activities with significant public health or environmental impacts on already overburdened communities¹; and the roles and responsibilities within Region 7 to carry out this plan.

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

Priority Permits

EPA Region 7 will screen applications falling in the categories described in this section for significant impacts and overburdened community concerns and prioritize them for our enhanced public participation protocols.

In accordance with EPA's agency-wide guidance, Region 7 defines the following EPA-issued permit categories as "priority permits" and will conduct the Region's enhanced outreach protocol in reviewing them.

¹ Overburdened describes 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. This increased vulnerability may be attributable to an accumulation of negative and lack of positive environmental, health, economic, or social conditions within these populations or communities.

- a) Prevention of Significant Deterioration (PSD) Construction permits under the Clean Air Act (CAA), especially new major sources (or major modifications of sources) of criteria pollutants; The types of priority permits for enhanced public participation are:
 - (1) Prevention of Significant deterioration (PSD) permits in Indian Country. Tribal consultation will be conducted for PSD permits that may affect Tribes.

- b) Significant Underground Injection Control (UIC) Program permits under the Safe Drinking Water Act (SDWA);
 - (1) Significant Underground Injection Control (UIC) Program permits under the Safe Drinking Water Act. The types of priority permits for enhanced public participation are:
 - (2) Class 1 injection well permitting actions on Tribal Lands in the Region.

- c) “Major” industrial National Pollutant Discharge Elimination System (NPDES) permits (as defined in 40 CFR 122.2) under the Clean Water Act (CWA) that are for:
 - (1) New sources or new dischargers, or
 - (2) 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;

- d) “Non-Major” industrial NPDES permits (as defined in 40 CFR 122.2) under the CWA that are identified by EPA on a national or regional basis as a focus area, for:
 - (1) New sources or new dischargers, or
 - (2) 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; and

- e) Resource Conservation and Recovery Act (RCRA) permits associated with new combustion facilities or modifications to existing RCRA permits that address new treatment processes or corrective action cleanups involving potential off-site impacts. Region 7 currently issues RCRA permits in the state of Iowa.

In addition, EPA Region 7 will consider prioritizing for enhanced public involvement activities both new and renewal permit applications for which a community has expressed environmental justice concerns, and permit applications and renewals where the Region has other information indicating environmental justice concerns related to the permit exist. The outreach activities Region 7 will undertake as part of these permitting processes will be determined based on the type of action, EPA’s statutory authority and prioritization outlined in this plan.

Approach to EJ Screening

EJ screening is the use of available environmental and demographic information to highlight locations where additional review (e.g., information collection or analysis) may be warranted. EJ screening results in a preliminary characterization of potential impacts on the population, including low-income and/or minority populations, and potential environmental and health impacts that may fall disproportionately on them.

EPA is now beta-testing a nationally consistent screening tool, called EJSCREEN. EJSCREEN is a geospatial tool that contains demographic and environmental data for the United States at the census block group level. The environmental factors include: (1) PM 2.5 Level in Air; (2) Ozone Level in Air; (3) Diesel Particulate Matter Level in Air; (4) Air Toxics Cancer Risk; (5) Air Toxics Neurological Hazard Index; (6) Air Toxics Respiratory Hazard Index; (7) Traffic Proximity and Volume; (8) Lead Paint Indicator (% pre-1960); (9) Risk Management Plan Facility Proximity; (10) Superfund Site Proximity; (11) Treatment Storage Disposal Facility Proximity; and (12) Major Direct Dischargers to Water Proximity. In addition to environmental factors, the tool also uses two primary demographic factors, specifically, percentage of the population that is minority and percentage of population that is and low-income. EJSCREEN also includes information about linguistic isolation, population over age 64, population under age 5, and population with less than a high school education. EJSCREEN also creates indexes, which combine each environmental indicator with the two primary demographic factors, to provide a measure of how much each block group contributes to disparity between demographic groups nationwide.

Region 7 will use EJSCREEN and other readily available sources of information, including known community concerns, to perform initial EJ screening of permits. As a pre-decisional tool, EJSCREEN will be used to highlight candidates for additional review where enhanced outreach may be warranted. Additional review includes consideration of additional available information and data unique to an area and that may capture environmental and demographic factors more holistically. EJSCREEN is not designed to conclusively determine whether or not disproportionately high and adverse impacts in fact exist.

In cases where EJSCREEN is not appropriate for use in screening because the relevant data were not available for the area, the region will complete a similar screening by reviewing available demographic and environmental data. EPA expects that in most circumstances EJSCREEN will be the appropriate tool for initial screening.

Enhanced Outreach Activities: Roles and Responsibilities

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 also coordinate with state, local, and/or tribal authorities in appropriate circumstance.

For each permit that is prioritized through the process outlined above, the region will develop an approach to enhanced outreach that is appropriate under the circumstances. The following provides activities that may be considered for enhanced outreach at key junctures in the permitting process to promote greater involvement of overburdened communities. The list of activities is not meant to be comprehensive or exhaustive. Different situations will justify different responses. In addition to enhanced public outreach efforts, other methods of addressing and incorporating environmental justice concerns in the agency's permitting actions will be considered including, but not limited to, available legal tools to achieve environmental justice as set forth in Plan EJ 2014 Legal Tools.

Planning and Gathering Information:

- Explore ways to reach out to the affected community in coordination with relevant EPA staff, including permit writers, EJ coordinators, and OPA staff, *(Lead: EJ, OPA, OTA and permitting program)*
- Evaluate the appropriate length of the public comment period. *(Lead: permitting program)*
- Consider holding information meetings for the public in addition to formal public comment sessions. *(Lead: permitting program with support from OPA, OTA and EJ)*

Coordinating within EPA:

- For applicants with multiple EPA issued priority permits, inform EPA permit writers from other offices in the region that your office has received a permit application from the applicant. *(Lead: the permitting program)*

Communicating with the Community:

- Designate EPA point(s) of contact that the community can contact to discuss environmental justice concerns or questions of a technical nature about the permit application. *(Lead: permitting program and EJ)*
- Use informational materials to explain the permitting process. *(Lead: permitting program with support from OPA)*
- Use plain language when communicating with the public. *(Lead: permitting program, OPA and EJ)*
- Use communication techniques the community values, such as direct mailings, posters, and emails to list serves. *(Lead: permitting program with support from OPA, OTA and EJ)*

- Encourage the permit applicant to provide documents in multiple languages as needed for communities with multi-lingual populations (including interpreters at public meetings (per LEP policy). *(Lead: permitting program)*
- Make key documents on the proposed project readily accessible to the community, using a variety of media tools (paper copies, online, etc.), when appropriate. *(Lead: permitting program with support from OPA, OTA and EJ)*
- Hold public meetings at times and places in the community best designed to afford the public a meaningful chance to attend. *(Lead: permitting program with support from OPA, OTA and EJ)*
- After the permit has been issued, make available to the community a summary of EPA's comment responses and provide information on where the community can find the entire comment response document. *(Lead: permitting program)*

Communicating with the Permit Applicant:

- The Region will encourage enhanced outreach by the applicant (for new permits) or permittee (for 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; and
 - apply EPA guidance on environmental justice, such as the Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line.
- Encourage the permit applicant to provide EPA with a plain-language description of its proposed project or permit application. *(Lead: permitting program, OPA and EJ)*
- Encourage the permit applicant to consult EPA guidance on environmental justice and other resources developed under Plan EJ 2014, including (when finalized) the Draft Recommended Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line. *(Lead: permitting program)*
- Encourage the permit applicant to provide documents in multiple languages as needed for communities with multi-lingual populations (including interpreters at public meetings (per LEP policy). *(Lead: permitting program)*
- Encourage the permit applicant to take the lead on enhanced public participation. *(Lead: permitting program)*

Outreach to Tribal communities and Tribal Consultation

- Identifying communities with environmental justice concerns will, by necessity, often include Tribal communities within Region 7. Section 6-606, of Executive Order 12898, Federal Actions for Addressing Environmental Justice in Minority Populations and Low-Income Populations, notes that each federal agency's responsibility set forth under the order shall apply equally to Native American programs. EPA recognizes that the U.S.

government has a unique legal relationship with federally recognized Tribes and works with Tribes on a government to government basis. Thus, in accordance with EPA Tribal Consultation and Coordination Policy with Indian Tribes (May 4, 2011), EPA will consult with Tribes on permitting activities identified that may affect Tribes. (Note that permitting activities that may affect Tribes do not necessarily need to be located in or near Indian Country. The nature of activity and type of permit will dictate the extent of analysis needed to determine whether a Tribe may be affected.)

- In some cases, both Tribal consultation and enhanced outreach may need to be conducted where both a Tribe may be affected and overburdened communities and environmental justice concerns are identified during the screening process.
 - Provide for consultation with impacted tribe as appropriate consistent with Region 7, Tribal Practices Guidebook, Part II, R7 Plan for Consultation and Coordination with Tribal Governments (Lead: permitting program and OTA with support from and EJ)

Progress Review

Region 7 will periodically review progress and share lessons learned with other regions and headquarters in carrying out the enhanced outreach provided in this plan.