

# United States Environmental Protection Agency Region 2



## *Interim Environmental Justice Policy*



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# PREFACE

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## 1.0 POLICY OVERVIEW.

### 1.1 Purpose and Framework of the Interim Policy

The mission of the U.S. Environmental Protection Agency is to protect human health and to safeguard the natural environment -- air, water, and land -- upon which life depends. As part of its mission, EPA's purpose is to ensure that:

- C All people are protected from significant risks to human health and the environment where they live, learn and work.
- Federal laws protecting human health and the environment are enforced fairly and effectively.
- All parts of society—communities, individuals, industry, state and local governments, tribal governments—have access to accurate information sufficient to effectively participate in managing human health and environmental risks.
- Environmental protection contributes to making our communities and ecosystems diverse, sustainable and economically productive.

EPA Region 2 is committed to providing equal protection to all communities we serve. Accordingly, Region 2 is incorporating Environmental Justice (EJ) in its technical and management decisions and actions. In accordance with the President's Executive Order 12898 ("EO"),<sup>1</sup> this Region 2 Interim Environmental Justice Policy (*Interim Policy*) has been developed to assist in the achievement of this goal.

It is the Region's intent to use the Interim Policy to ensure that we can identify, target, and be responsive to those communities that experience disproportionately high and adverse human health and environmental burdens. Further, the Region is committed to ensuring that all the communities and stakeholders we serve have environmental protection and liveable, sustainable communities.

The Region believed it was essential for the Region to solicit input from our stakeholders in the development of this policy. In this regard, the initial draft

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<sup>1</sup> Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," issued by President William J. Clinton on February 11, 1994.

Interim Policy was subjected to internal/external peer review and public comment. Further, input from those reviews has been used to shape this revised policy.

It is not Region 2's intention to pre-designate environmental justice communities or areas. Instead, the Region intends to respond to community concerns and to be able to identify communities where EJ concerns may arise (i.e., *potential* EJ communities or areas) to ensure that our core program activities are resulting in equitable treatment. Therefore, it is essential for Regional managers and staff to understand and become aware of the situations and instances in which environmental justice issues may arise. In this regard, it is important to note that environmental justice issues often surface in a multi-media, multi-source and socio-economic context or scenario as opposed to a single media scenario. For instance, it is more the exception than the norm to have an environmental justice complaint or issue that is limited to a single problem, such as a community's drinking water. In this regard, the Interim Policy provides for analyses of both single and multi-media issues.

The following Guiding Principles and Concepts have served to shape the Region's Environmental Justice Program and initiatives:

- C Equal Protection is the objective;*
- C "Early and Meaningful" involvement of the affected community is essential;*
- C A community's "perception" is its reality;*
- C Solutions require all stakeholders to participate at the table;*
- C Meetings must be convenient for the affected community;*
- C Look at existing environmental regulations, statutes, policies to incorporate and consider EJ; and*
- C "Environmental Justice is a Matter of Fairness" - - Jeanne M. Fox, Regional Administrator.*

In addition to this interim policy, EPA's Office of Environmental Justice is working towards the development of a national Environmental Justice guidance which may supersede or supplement this policy. Until, the Agency issues final guidance in this area, the Region believes the Interim Policy will enable our staff to more fairly and effectively carry out Region 2's programs and initiatives consistent with the EO. Lastly, the Region considers this Interim Policy to be a "living document," and as such, we will periodically gauge the scope of the document

based on the progress of its implementation.

## 1.2 Scope of the Interim Policy

This *Interim Policy* delineates the approach and methodology Region 2 will use to evaluate and assess environmental justice (EJ) communities and their concerns. Specifically, the Interim Policy includes the Region's Environmental Justice Policy Statement and our guidance with respect to the following areas: *Permitting, Enforcement, Community Involvement, and the Superfund program*. Throughout the development of this Interim Policy, it has been the Region's expectation that such guidelines will provide the steps and tools Regional managers and staff can utilize toward conducting EJ analyses to determine potential and actual EJ communities or areas. As the Region proceeds along in the implementation of this Interim Policy, further considerations may be given to broaden the scope to include additional program guidance.

## 1.3 Environmental Justice Terms and Definitions

*What is Environmental Justice?* The Office of Environmental Justice in EPA Headquarters (OEJ) has issued the following interim EJ definition:

*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. Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.<sup>2</sup>*

The EO specifically addresses situations where minority or low-income communities bear a disproportionately high and adverse human health or environmental burden. In addition, it directs federal agencies to take steps to prevent, as a result of federal programs, policies, and activities, "disproportionately high and adverse human health or environmental effects...on minority populations and low-income populations."

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<sup>2</sup> Definition of Environmental Justice used in the EPA Office of Federal Activities "Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analysis," (April 1998, p. 2).

This Interim Policy uses terms<sup>3</sup> and definitions that may not be the preferred usage or terminology for many of our stakeholders, but which the Region uses in order to be consistent with other federal government agencies and the EO. In addition, Region 2 uses the terms “EJ Area” or “EJ Community” interchangeably to describe a community that satisfies the intent of the EO. Also, the Region uses the term “Community of Concern (COC)” to refer to a community that is the subject of an EJ analysis. For a listing of the most commonly used terms (including definitions) in this Interim Policy, refer to Appendix 3 (Glossary of Terms).

#### 1.4 The Environmental Justice Analysis

The *Guidelines for Conducting Environmental Justice Analyses* (Section 2.0 of the Interim Policy) describes a process for conducting consistent evaluations of potential and actual environmental justice communities. This process includes two steps:

- C conducting demographic screening to identify potential EJ areas that warrant further consideration; and
- C conducting site-specific analyses to identify an EJ community to address its concerns.

The guidelines advance the concept of an environmental load profile (ELP), and the use of a geographic information system (GIS)-based demographic mapping tool to conduct site-specific EJ analyses. The GIS provides for the comparison of three factors between the COC and a statistical reference area: their respective levels of (1) minority representation, (2) low-income representation, and (3) environmental burden. Statistical criteria offer guidance for determining whether the levels of minority or low-income residents and the environmental burden are significantly greater and disproportionately high and adverse in the COC. The environmental load profile (ELP) serves as a representation of the environmental burden in the COC. It also provides a consistent basis for comparison of the COC to the statistical reference area.

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<sup>3</sup> This policy uses the term “minority” rather than “people of color” in order to be consistent with the Executive Order, but the Region is mindful and sensitive to many communities’ desire to be identified as “people of color.” In addition, the policy uses the term “American Indian” in referring to all indigenous populations within the Region, regardless of their affiliation with a federally-recognized Tribe. However, EPA staff recognize various terminology preferences and will strive to respect and utilize appropriate language on a case-by-case basis.

The *Procedure* (Section 2.2) provides the methodology for identifying the COC, evaluating whether it is a minority and/or low income community, and assessing whether its environmental burden is disproportionately high and adverse. In general, at the conclusion of an EJ analysis, a decision document<sup>4</sup> will be generated which includes the following:

- C boundaries of the Community of Concern, and rational for its selection;
- C identification of the statistical reference area used;
- C results for each factor: minority, low-income, and environmental burden;
- C comparison of the results for each factor between the COC to the reference area;
- C any additional factors that were considered (Sec. 2.3); and
- C conclusion of the analysis, incorporating all three factors.

### **1.5 Program Guidelines.**

The Guidelines were created to provide Region 2 management and staff with a systematic and consistent approach when an EJ area evaluation is made, or where initial screening indicates the potential for an EJ area identification. The Guidelines articulate responsive measures for the Region's activities of permitting, enforcement, community involvement, and the Superfund program.

It is important to note that the identification of a disproportionately high and adverse human health or environmental effect on a minority population or low-income population does not preclude a proposed agency action from going forward. Rather, at a minimum, the identification of such an effect should heighten the Region's attention to increased community awareness and communication, alternative mitigation strategies, monitoring needs, and preferences expressed by the affected community.

- C Guidelines for Conducting Environmental Justice Analyses: These Guidelines for Conducting Environmental Justice Analyses provide

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<sup>4</sup> It is recognized that not all issues will require a full analysis to address the concerns of the community. In those instances, a letter or memorandum may suffice to adequately document the Region's actions.

guidance and procedures, and identify sources of data for conducting EJ analyses, to evaluate if a community is an EJ community. They provide the Region's managers and staff a consistent, fair and systematic methodology for conducting EJ analyses in conjunction with existing regulations and program protocols.

- C Environmental Justice and Permitting Guidelines: The Environmental Justice and Permitting Guidelines provide permitting staff with guidance on how to consider EJ in the context of significant permitting decisions. For purposes of this interim policy, permitting decisions include new major permits, significant permit modifications (except administrative modifications), and major permit renewals.
- C Environmental Justice and Enforcement Guidelines: These guidelines are applicable to civil regulatory enforcement. They are intended to assist the Region's enforcement staff to (i) identify EJ communities; (ii) recognize and determine when EJ issues may arise in a particular civil regulatory enforcement matter; and (iii) consider other options in addition to enhanced public participation to address EJ in the initiation, prosecution, and resolution of a civil enforcement matter.
- C Environmental Justice and Community Involvement Guidelines: These Guidelines outline measures to involve the potentially affected community. They provide suggestions and resources available for regional staff to use to solicit meaningful involvement on the part of our stakeholders early in the public participation process, to keep them appropriately informed on issues, and to assist communities in acquiring and accessing information relevant to them.
- C Environmental Justice and the EPA Superfund Program Guidelines: These guidelines provide EPA staff with guidance specific to conduct EJ analyses for new and active sites on the Superfund National Priorities List (NPL).

## 1.6 Conclusion.

Region 2 believes that a robust EJ program should result in early resolution of EJ concerns in affected communities and fewer formal administrative Title VI<sup>5</sup> complaints being filed. It is also the Region's goal that the implementation of this policy will result in equal environmental protection and liveable, sustainable communities.

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<sup>5</sup> Title VI of the 1964 Civil Rights Act.



## 2.0 Guidelines for Conducting Environmental Justice Analyses

The *Guidelines for Conducting Environmental Justice Analyses* provide guidance and procedures, and identify sources of data for conducting EJ analyses to evaluate if a community is an EJ community. It is divided into the following major sections: Environmental Justice Definitions and Data Sources; Procedure; and Additional Factors. The EJ Factors and Data Sources section addresses definitions and data availability. The Procedure section discusses the methodology for evaluating EJ community and associated analytical tools. The Additional Factors section highlights some unique circumstances and alternatives for addressing such situations.

Further, these guidelines provide methodologies for developing an environmental load profile (ELP) to represent burden. The approach is to incorporate contributing elements into the load profile where there is a defensible method or data to provide a quantifiable estimate of an element's contribution to burden. The Region intends to add categories to the load profile as analytical methods and consistent data sets become available. Section 2.2.5 presents the criteria for determining whether the *Community of Concern* (COC) is a disproportionately high and adversely burdened community.

### 2.1 Environmental Justice Definitions and Data Sources

#### 2.1.1. Definitions

##### **Minority Community or Population**

EPA's Office of Environmental Justice has defined the term "*minority*" for EJ purposes to include Hispanics, Asian-Americans and Pacific Islanders, African-Americans, and American Indians and Alaskan Natives. For EJ purposes, the term 'minority' does NOT address religion or people who might be distinguished by sex, age, culture, sexual orientation, or any type of handicap. Section 2.2.1 presents the statistical criterion for determining whether the COC is a minority community for EJ purposes under this Interim Policy.

##### **Low-income Community or Population**

The U.S. Census Bureau does not provide a specific definition for "low-income." Rather, the term is used interchangeably with "poverty." In this regard, the Census Bureau established a set of income cutoffs/thresholds to determine the poverty status of families. Those poverty thresholds are based on family size and the number of family members under 18 years old. Further, these groups were differentiated by age of the family householder. In addition, the thresholds for a one-person family (unrelated individual)

and two-person family were further differentiated by the number of family members 65 years of age and older. The Census determines poverty by comparing the total income of each family against its corresponding threshold. If the total family income is less than the corresponding cutoff, the family is classified as "below the poverty level." Section 2.2.2 of this Interim Policy presents the statistical criterion for determining whether the COC is a low income community for EJ purposes under this IP. Until the 2000 Census data becomes available, the Region will utilize the 1990 Census data for purposes of determining whether a COC is a low-income and/or minority community.

### **Disproportionately High and Adverse Burden**

The environmental *burden* or impact can be related to ambient conditions, a specific source or sources, and/or cumulative or area-wide sources. This burden can affect human health, as well as the ecological health of the natural environment. Identifying the magnitude of environmental burden, however, is not a simple process. Whereas high quality and consistent data are available for the development of the required low-income and minority demographic profiles, there currently exists limited data available for assessing the environmental burden.

## **2.1.2 Data Sources**

This section discusses available data sets that will be used for conducting this segment of the EJ analysis.

### **Low-income and Minority Environmental Justice Demographic Data.**

Region 2 has developed a Geographic Information System (GIS) layer of the 1990 Census data. Moreover, Region 2 has developed a GIS application that uses the Census data to conduct the demographic portion of the EJ analysis. In mapping the data, it is important to properly define the boundaries of the COC to run the demographic analysis. It is the Region's intent to develop such boundaries with input from the community. Once the boundaries are established, they can be drawn onto the GIS application. Next, the application calculates the percent minority and low-income based on the Census data. Lastly, the application compares the COC to an appropriate statistical reference area as discussed in Section 2.2.2.

### **Disproportionate Burden Data**

The Guidelines advance the concept of an environmental load profile. The profile provides a representation of the environmental burden in the community. It is based on salient characteristics that serve as indicators of environmental burden and provide a consistent basis for comparison. The profile of the community of concern is compared to that of the statistical

reference area and the salient characteristics (e.g., indicators of air quality, drinking water, etc.) are used to assess whether the COC is an EJ community. Information for the environmental load profile analysis may be generated from the following available data sources:

### **Exposure Data**

Information on exposure may be found, at least generally or indirectly, in some commonly available data bases. There is a large degree of facility (source) information available for EJ analysis within the following EPA mainframe databases:

- C The Toxic Release Inventory System (TRIS);
- C Resource Conservation and Recovery Information System (RCRIS);
- C Permit Compliance System (PCS);
- C Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS);
- C Federal Reporting Data System (FRDS);
- C Aerometric Information Retrieval System (AIRS) Facility Subsystem (AFS);
- C Ambient Monitoring data may be obtained from AIRS and the Storage and Retrieval of Water-Related Data System (STORET); and
- C Land use data derived from the USGS National Land Cover data set which were derived from Landsat thematic mapper satellite imagery.

### **Health Data**

In addition, we will consider the insights that available health data sources may provide toward the environmental load profile. Data sources that should prove useful include:

- C State and local health departments compile health data that are available to researchers (e.g., the New York State Department of Health (NYSDOH) collects cancer, infectious and heart disease statistics for New York State, as well as vital statistics, including births, deaths, and spontaneous fetal death). Disclosure of such data, in most

circumstances, is limited by law in order to protect the privacy of patients. As a result, access to this data may be limited;

- C The Centers for Disease Control and Prevention (CDC) publishes similar data for the country, including health risks (e.g., behavioral risk factors, environment and health); and
- C Hospital and emergency room data are available for certain conditions (e.g. asthma) in certain areas. However, based on the lack of consistent availability of data sets for such information, the Region anticipates using this type of data only in special circumstances.

## 2.2 PROCEDURE

The following six (6) steps comprise the procedure to identify potential EJ communities and, further, actual EJ communities:

- 1) delineate the boundaries of the COC and conduct, as appropriate, a preliminary environmental burden analysis<sup>6</sup>;
- 2) compare the demographics of the community to an appropriate statistical reference;
- 3) determine whether the community is either minority or low income;
- 4) develop a comprehensive environmental load profile (ELP) for any community that is either minority or low income;
- 5) assess whether the burden is disproportionately high and adverse; and
- 6) summarize and report the results.

The evaluation of potential EJ communities is an iterative process - i.e., the defining characteristics of both the community and the actual analysis of that community are refined as the Region moves toward a more detailed analysis.

The following sections address the methodology for conducting steps 1 through 6.

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<sup>6</sup> Depending on the particular regional action involved (e.g., processing a permit application), a preliminary burden analysis may provide managers and staff with advance notification of a potential environmental justice concern.

### **2.2.1 Step 1: Develop Geographic Boundaries for Community of Concern and Conduct a Preliminary Burden Analysis**

There are a number of different ways to identify the geographic boundaries of the COC. They include the use of established political boundaries - i.e., city, county or town limits; physical boundaries - e.g., rivers, main roads, or railroad tracks; and U.S. Census boundaries, such as those for census blocks or block groups. Other recommended sources of information on community boundaries include state and local governments. Nevertheless, final boundaries of the COC may be modified following community input.

In addition to delineating the community boundaries, a preliminary burden analysis may be performed with respect to the environmental burden experienced by that particular COC. Conducting an initial burden analysis can serve as a useful tool for regional managers and staff, especially in the case of reviewing applications for federally-issued permits, as the information generated may allude to a potential environmental justice concern in the vicinity of the facility early on during the permitting process. Through the use of the GIS application, along with mapping data received from the environmental burden indicators (See 2.2.4 for further description), a determination can be made as to whether a potential environmental justice concern exists in the vicinity of the permit applicant's facility.

### **2.2.2 Step 2: Compare COC Demographics to a Statistical Reference Area**

Statistical reference areas are evaluated to determine appropriate cutoffs for demographic factors: minority and low income. This evaluation provides a basis for comparison to determine if the COC meets the demographic EJ criteria. A description of the statistical analysis follows.

#### **Statistical Reference Area**

Demographic data were analyzed using the 1990 Census. Moreover, the statistical cluster analysis approach was applied using Census block group data. The block group represents the resolution of least-size where the most important data sets are readily available (i.e., both for population and income). Data were evaluated on a state-specific basis. All of the statistical methods evaluated indicated that minority populations in urban areas were skewing the results for the states of New York and New Jersey. Specifically, state-wide benchmarks were similar to those derived from using only urban areas, while the results for only rural areas were considerably lower. Consequently, minority data were evaluated separately for urban and rural areas within these states. These separate analyses yield one statistical reference area for urban

and one for rural for percent minority for New York and New Jersey. The following Census Bureau definitions for urban and rural were utilized:

<i>Urban</i>	All territory, population, and housing units located in urbanized areas (UA) and in places of 2,500 or more inhabitants outside of UAs. An urbanized area is a continuously built-up area with a population of 50,000 or more.
<i>Rural</i>	Territory, population, and housing units that the Census Bureau does not classify as urban are classified as rural.

### **Cluster Analysis**

Block group data were analyzed using the cluster methodology statistical approach. With the use of a cluster analytical approach, data are divided into two distinct groups (e.g., minority and non-minority; low income and non-low income). Cluster analysis examines the natural break of the data. Data on percent minority and percent poverty were ranked separately in descending order for each State. (Note, as discussed above, for minority data in New York and New Jersey, the data were evaluated based on urban and rural settings). An iterative process was employed in which the data were (1) split into two groups; (2) the means for each of the two groups were calculated; (3) the difference between the means for each group was determined; and (4) Steps 1- 3 were repeated until the greatest difference between the means was found. This method results in dividing the data into two groups that are as different as possible.

### **GIS Comparison of COC to Statistical Reference Area**

Region 2 has developed a GIS application to evaluate the demographics of the COC and compare them to a statistically derived reference area. To facilitate the statistical analysis, first the boundaries of the COC are drawn. The GIS application then calculates the percent minority and low income individuals within those boundaries using Census block group data. Where portions of a block group are inside the boundary of the COC, the total block group population is prorated based on the area included. (For example, if  $\frac{1}{2}$  of the block group is inside the boundary of the COC,  $\frac{1}{2}$  of the population in the block group would be utilized). The following tables were developed to provide a comparison of those percentages to the statistical reference area thresholds as discussed above.



<b>State</b>	<b>Urban</b>	<b>Rural</b>
New York	48.5	33.5
New Jersey	44.8	35.3
Puerto Rico	na <sup>7</sup>	na
Virgin Islands	na <sup>8</sup>	na
Indian Nations <sup>9</sup>	na	na

<b>State</b>	<b>Percentage</b>
New York	24.8
New Jersey	19.1
Puerto Rico	52.0
Virgin Islands	32.3
Indian Nations	na

### **2.2.3 Step 3: Determine if Demographic Criteria are Met**

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<sup>7</sup> See Additional Factors, pg.23.

<sup>8</sup> Ibid.

<sup>9</sup> There are seven federally-recognized Indian nations located within the external boundaries of New York State. They include: Tuscarora Nation, Tonawanda Band of Senecas, Cayuga Nation, Onondaga Nation, St. Regis Mohawk Tribe, Seneca Nation of Indians, and Oneida Indian Nation. The U.S. Government has a unique relationship with the federally-recognized Indian nations. In particular, these nations do not come under New York State jurisdiction and are not included in the above tables. These seven federally-recognized Indian nations are also provided special consideration as discussed elsewhere in this document.

In accordance with the Executive Order, a community is a potential EJ community if it is either minority or low income. The GIS application described above indicates whether either of the demographic criteria is met, based on a comparison of the COC demographics to statistical reference area cutoffs. If the COC demographics are equal to or above either cutoff then the COC is considered a potential EJ area that should be more fully evaluated.

#### **2.2.4 Step 4: Develop A Comprehensive Environmental Load Profile**

The environmental burden of a community can be represented by the concept of an environmental load profile (ELP). This profile is based on salient characteristics that serve as indicators of environmental burden and provide a consistent basis for comparison. The profile of the COC is compared to that of the statistical reference area and the salient characteristics (i.e., indicators of air quality, drinking water, etc.) are used to assess whether the COC is experiencing a disproportionately high and adverse burden.

##### **Environmental Burden Indicators**

Region 2 has developed a GIS application to assist in the development of the environmental load profile for a COC. While this application currently includes the following components:

- i. TRI Air Emissions,
- ii. Facility Density/Population Density,
- iii. Land Use Index,
- iv. Ambient Air Quality Mapping (Attainment/Non-Attainment Designation),

additional indicators are planned for future development.

##### **TRI Air Emissions Indicator**

This indicator was developed using the EPA's Office of Pollution Prevention and Toxics (OPPT) model which evaluates TRI emissions. Documentation for the model can be found at [http://www.epa.gov/opptintr/env\\_ind/index.html](http://www.epa.gov/opptintr/env_ind/index.html). The model takes into account the quantity of chemicals emitted from each facility, the toxicity weight of each chemical, the potential exposure and the size of population at the receptor. It uses this information to

generate an indicator value for each TRI facility. The indicator value is an unit-less value that reflects the magnitude of the relative risk impact of the facility on chronic human health. In developing the application, the Region first ran the OPPT model and generated the indicator values for all the facilities in the region and then mapped the indicator values to the TRI facilities. An inverse distance formula is used to determine the facilities' impact on census block groups within a 10 kilometer (or 6.2 miles) radius. An indicator value is calculated for each census block group by adding the cumulative impacts from facilities affecting that block group. As with the demographic analysis, the boundaries of the COC can be drawn using this tool. The TRI emission indicator is calculated by summing the indicators for the block groups included within the COC boundaries.

### **Facility Density/Population Density Indicator**

This indicator was developed from a geographic coverage of permitted facilities and the 1990 Census block group data for total population. The unique facility data layer was created to ensure that double counting of facilities would not occur. The unique data layer was created by screening out permitted entities that were shown as separate businesses in TRI, AIRS, PCS, RCRIS, or CERCLIS, but had the same Facility Identification Number across all different program systems. Furthermore, facilities that are tracked by RCRIS that were unlikely to produce significant environmental loadings (small quantity generators and certain other subclasses) were excluded from these data.

Facility density is calculated by adding all the facilities in the community and dividing by the area of the community to derive the number of facilities per square mile in the COC. This number is then multiplied by the population density of the delineated COC to produce an indicator that gives greater weight to facilities that are concentrated in high population density areas. The index is calculated as follows:

$$\text{index} = \frac{(\text{Total fac.})}{(\text{area of COC})} \times \frac{(\text{population})}{(10000)}$$

### **Land Use Index Indicator**

The land use index was derived from the National Land Cover Data (LCD) system, which is a product of the joint effort of the Multi-Resolution Land Characteristics (MRLC) Consortium formed by six federal environmental monitoring programs. The LCD was

produced from 1992(+1/-1 year) Landsat TM coverage with a 30 meter resolution. The LCD has 15 land use types in a grid format. For the purposes of this application, however, the LCD was summarized into 5 land use types:

1. industrial/commercial;
2. residential (combines two LCD classes - low density residential, and high density residential);
3. open space (combines eight LCD classes - deciduous forest, emergent wetland, evergreen forest, mixed forest, other grasses, pasture/hay, row crop and woody wetland);
4. water; and
5. other (combines three LCD classes - bare rock/sand, quarry/strip mine, transitional barrier).

As with the other GIS tools, the COC boundaries can be drawn or imported if the COC boundaries are already defined from the EJ Demographic Screening Tool, and the percentages associated with each land use category within the COC, are calculated. An index is developed by comparing these percentages to a statistical reference area.

#### **Ambient Air Quality Mapping (Attainment/Non-Attainment Designation)**

EPA's air quality data - i.e., as characterized from the collection of data from the Ozone (O<sub>3</sub>), Particulate Matter (PM<sub>10</sub>), Carbon Dioxide (CO<sub>2</sub>), and Carbon Monoxide (CO) monitoring stations throughout the Region, are mapped using the GIS tool. Spatial interpolation was used to estimate the concentration values in areas between ambient monitoring stations. The ambient air quality is then translated to air quality index (a.i.) to provide general information to the public about air quality and associated health effects. More information on air quality index can be found on [www.epa.gov/airnow/factsht.html](http://www.epa.gov/airnow/factsht.html). As with the other GIS tools, the boundaries of a COC can be drawn to determine if the COC is within a non-attainment area for any of these parameters.

#### **2.2.5 Step 5: Assess whether the burden is disproportionately high and adverse.**

### **Evaluating Disproportionately High Burden**

The Region intends to use statistical methods for evaluating whether the burden in a COC is disproportionately high. The analysis would be performed by evaluating data on a Census block group level. The Indicators described above would provide the basis for comparison to a statistical reference area. The Region expects to use the same statistical reference areas as were used with the demographic evaluation. Those demographic statistical reference areas were established on a state-by-state basis and by evaluating data for urban and rural settings. The statistical methodology would yield cutoff values for each of the environmental load profile indicators. The load profile indicators would be combined to evaluate the overall profile for the COC compared to the statistical reference. Initially, predetermined weights would be assigned to each load profile element. As appropriate, the Region may conduct ground truthing<sup>10</sup> to adjust the weights to reflect actual conditions.

### **Evaluating Adverse Burden**

There is no established methodology for evaluating cumulative risk and there are uncertainties associated with assessing environmental burden. In any event, when an acknowledged health standard for the burden in question is exceeded, the Region will consider the burden to be adverse unless otherwise indicated by supportive data.

## **2.2.6 Step 6: Summarize and Report the Results.**

In general, the results of the analyses should be presented in a decision document<sup>11</sup> which may include the following:

- C boundaries of the Community of Concern;
- C identification of the statistical reference area used;
- C results for each factor: minority, low-income, and environmental

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<sup>10</sup> [**Ground truthing** refers to the collection of reference data materials. Data used in the ELP would be verified by a variety of methods, which may include: collection of field data, "site checking" for land use, etc.].

<sup>11</sup> It is recognized that not all issues will require a full EJ analysis to address the concerns of a community. In those instances, a letter or memorandum may suffice to document the Region's actions.

burden;

- C comparison of the results for each factor for the COC to the reference area;
- C any additional factors that were considered (Sec. 2.3); and
- C conclusion of the analysis, incorporating all three factors.

In addition, any information collected during the EJ analysis used in support of rendering a decision on the EJ characterization of the COC (e.g., permit application, community correspondence, maps) should be incorporated into the decision document .

## **2.3 ADDITIONAL FACTORS TO BE CONSIDERED.**

Notwithstanding the Region’s effort to develop consistent and comprehensive methodologies for EJ analyses, there will arise exceptions and situations that are not easily adaptable to a prescribed methodology and, therefore, flexibility has been built into the Guidelines. Examples of such exceptions may include:

### **2.3.1 Additional Demographic Considerations**

In certain circumstances, a COC may be virtually indistinguishable from any of its neighbors for a given EJ demographic factor. The examples in Region 2 are in Puerto Rico and the U.S. Virgin Islands (USVI), where every community is classified as Hispanic, in the case of Puerto Rico, and as communities of color in the case of the USVI, even though additional racial differences may exist. When the population in the larger area incorporating the COC is relatively homogeneous for a given EJ demographic factor, it is usually not useful to compute a difference in that factor between the COC and the reference area.

### **2.3.2 Additional Population Considerations**

There will be some limited circumstances in which the Census data are not sufficient or appropriate for a specific EJ analysis. For example, certain areas in the Region may have large numbers of undocumented or transient residents who are not recorded in any official Census data bases. When it is clear that a specific community may have demographics that are significantly different from the official census figures, the Region may need to consider additional measures to develop more meaningful data. In such

cases, the Region will need to work with the local government and community to develop a more representative demographic profile.

### **3.0 ENVIRONMENTAL JUSTICE AND PERMITTING GUIDELINES**

The Environmental Justice and Permitting Guidelines provide permitting staff with guidance on how to consider environmental justice (EJ) in the context of permitting decisions. Permitting staff should apply these guidelines regarding permitting decisions that include new major permits, significant permit modifications, or major permit renewals. Following the steps outlined below will help to ensure that EPA, Region 2's permitting decisions are consistent with the EO. To expedite Region 2's evaluation of whether there are EJ implications to a proposed permit, permitting staff should work with applicants, as necessary, to obtain sufficient information to perform the following analyses.<sup>12</sup>

#### **3.1 Identification of Potential Environmental Justice Permitting Cases**

Potential EJ concerns may be raised early in the permitting process either through the initial screening analysis or by the community. As appropriate, either before or at the time a permit application is submitted to Region 2, the boundaries of the COC and the preliminary burden analysis (Section 2.2.1) should be developed. Should the preliminary burden analysis indicate that there is a potential concern, appropriate action should be pursued to minimize and/or mitigate such concerns and the COC demographics should be compared to a statistical reference area (Section 2.2.2).

Should the demographic determination (Section 2.2.3) indicate that the COC is a potential EJ community, the environmental load profile analysis (Section 2.2.4) should be conducted and a determination made (Section 2.2.5) whether a disproportionately high and adverse human health or environmental burden is indicated. As appropriate, the results of the analysis should be summarized in a document, letter, or memorandum (Section 2.2.6).

Using the above-defined process, permitting staff should integrate EJ analyses with the permit review as follows:

- i. Notify the community and interested stakeholders of upcoming permit applications, when known, or upon receipt of a permit application. This could be accomplished through the use of Region 2's Permit Complaint System.
- ii. If the facility/source is an Indian nation's area of interest, notify the Region 2 Indian Program Coordinator who will notify the appropriate tribe. (The Region has initiated discussions with the Indian nations to

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<sup>12</sup> See EPA's Office of General Counsel memorandum, dated December 1, 2000, titled "EPA Statutory and Regulatory Authorities Under Which Environmental Justice Issues May Be Addressed in Permitting."

define such areas.)

- iii. Conduct a preliminary burden analysis upon the receipt of the permit application or upon potential EJ issues being raised by the community/citizen group.
- iv. Should the preliminary burden analysis indicate potential environmental concerns, appropriate action should be pursued to minimize and/or mitigate such concerns. Proceed with conducting the EJ analysis (See Section 2.2).
- v. Meet with the permit applicant if the community's demographic representation indicates that the facility is located within a potential EJ community. The permitting staff should coordinate with the permit applicant to explain the Region 2 EJ, analysis, and to develop a plan to address the findings.
- vi. If the EJ analysis determines that the COC is an EJ community, coordinate with the permit applicant and the community to address appropriate action. However, if the EJ analysis determines that the COC is not an EJ community, the permitting staff should continue with the permit review process in step (viii).
- vii. Generally, make the results of the demographic and environmental burden analysis publicly available no later than the Public Notice of the draft permit. If potential EJ concerns are raised during the public comment period on the draft permit, the results of the analysis would usually be incorporated as part of the responsiveness summary. In any event, staff should include the results in the Administrative Record.
- viii. Develop the draft permit.

Where the COC does not meet the demographic and/or environmental burden requirements for an EJ area identification in accordance with the Region's Interim Policy, permitting staff should continue to be mindful of and, as appropriate, be responsive to the community's identified concerns.

### **3.2 Meaningful and Early Public Involvement**

Where the demographic and environmental burden analysis indicates an EJ community, refer to Section 2.2 of these Guidelines and to the Environmental Justice and Community Involvement Guidelines (Section 5.0) to determine appropriate public involvement actions.

In some instances (e.g. involving air facilities) the impacted community may be

different from or extend beyond the community where the facility or source is located. The permitting staff should determine the area of the demographic and the environmental load profile analysis based on its knowledge of the type and effect of the facility or source.

### **3.3 Community-Identified Environmental Justice Issues**

EPA normally provides enhanced public participation where it is aware of, or a community raises, potential EJ concerns. If a citizen or community group identifies EJ concerns in an area potentially impacted by EPA's permit decision, the permitting staff should consider the community-identified EJ concerns, proceed as instructed in Section 3.1.1 above, and initiate the EJ analysis provided for in Section 2.2 of the Interim Policy.

### **3.4 Responding to Disproportionate Effects, Evaluations, and Community Concerns**

This Section identifies specific responses which may be appropriate, based on the Region's Interim Policy, permitting staff's evaluation, as well as input from the permit applicant, state/local government officials and the public. As noted in Section 2.0, an identification of a disproportionately high and adverse human health or environmental effect on a minority population, or low-income population, does not preclude the proposed agency action from going forward. However, since every EJ permitting situation is unique, the permitting staff should exercise its best judgment. The appropriate response to a finding of disproportionately high and adverse health effect will be factored into the permit decision-making process; and this should be clearly explained to the permit applicant and the public as the Region works with our stakeholders to address and resolve EJ concerns. (See Appendix 1 for a suggested process for factoring EJ into permit decision-making)

The Environmental Appeals Board (EAB) has identified two broad areas in which EPA should exercise its discretion to achieve an effective response to EJ issues in the permitting process. These areas are: (1) public participation, and (2) the omnibus authority - i.e., EPA's authority under various statutory and regulatory provisions to set conditions as it determines necessary in order to protect human health and the environment.

**C** **Enhanced public participation.** The EAB has held that "when the Region has a basis to believe that operation of the facility may have a disproportionate effect on a minority or low-income segment of the affected community, the Region should, as a matter of policy, exercise its discretion to assure early and ongoing opportunities for public involvement in the permitting process." Early and ongoing public participation helps achieve EJ by ensuring that citizens' concerns and information about the

affected community have been factored in to EPA's decision-making process.

Public participation is a two-way process. EPA receives information, comments and advice, but it also disseminates information, analyses, and decisions. Nevertheless, routine public participation procedures are not always adequate in minority or low-income communities, where there may be additional barriers to communication.

In general, as mentioned above, the permitting staff should provide opportunities for meaningful public participation that go beyond the routine public participation procedures (e.g., holding public information sessions, establishing an information repository.) For additional guidance on enhancing public participation, refer to the Environmental Justice and Community Involvement Guidelines (Section 5.0), and the NEJAC's "Model Plan for Public Participation."<sup>13</sup>

**C** **Authority to set permit conditions.** The omnibus authority, as provided for in various statutes and regulations, gives EPA the discretion to take disproportionate effects into account in reaching permit decisions. Permitting personnel may consider the following as additional measures, as appropriate under applicable statutes, when developing permit conditions:

- i. ***Monitoring.*** It may be appropriate to include permit conditions that set additional monitoring requirements, or require the permitted facility to make monitoring data more readily accessible to the impacted community.
- ii. ***Risk reduction.*** Additional steps which will reduce risk from a permitted activity are appropriate, where the impacted population already faces a related disproportionately high and adverse health effect. The permitting staff may consider improved or more stringent standard operating procedures (SOPs) to reduce releases, and therefore exposures. For example, SOPs may include material handling procedures to reduce air emissions. The Agency may require toxic use reduction plans and pollution prevention practices and prioritize technical assistance for facilities in EJ areas.
- iii. ***Prevention and preparedness of accidental releases.*** Additional requirements for emergency preparedness may be appropriate (e.g.,

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<sup>13</sup> "The Model Plan for Public Participation" was developed in November 1996 by the National Environmental Justice Advisory Council (NEJAC) - - EPA's federal advisory committee on Environmental Justice matters - - in order to provide the Agency with guidance on enhancing public participation.

increase testing and maintenance of equipment and communication/alarm systems) to reduce the risk from an accidental or unpermitted release. Permitting staff should ensure that the Community-Right-to-Know requirements are being met, the Local Emergency Planning Commission's are notified as appropriate, and that Response Plans are updated accordingly.

- C **Encourage Stakeholder Agreements.** EPA can also play an important role in encouraging the parties to reach agreements outside the scope of the agency's permitting authority. For example, the permit applicant and community members may be able to negotiate 'Good Neighbor Agreements' such as truck routes or operating hours to mitigate the impact of a facility on that community.

#### **4.0 ENVIRONMENTAL JUSTICE AND CIVIL ENFORCEMENT GUIDELINES**

These guidelines are applicable to civil regulatory enforcement. They are intended to assist the Region's enforcement staff to (i) identify EJ communities; (ii) recognize and determine when EJ issues may arise in a particular civil regulatory enforcement matter; and (iii) consider in addition to enhanced public participation other options to address EJ concerns in the initiation, processing, and resolution of an enforcement matter. Actual EJ communities, by definition, bear an unfair burden due to pollution, and affected residents and children may experience disproportionately high and adverse health effects. Therefore, it is important to provide equitable inspection coverage in low-income and minority areas. It is always important to return violating facilities to compliance as quickly as possible.

The Region will continue to provide compliance and enforcement information to those communities located in low income and/or minority areas. In particular, the Region will coordinate on-site compliance visits and seminars to specifically address EJ concerns. Further, EJ concerns will be considered in targeting single and multimedia inspections. Notwithstanding, the Region will respond to complaints from potential EJ communities, as well as all segments of the population, with the appropriate inspection.

##### **4.1 Identifying Potential Environmental Justice Cases.**

Enforcement matters, including those which arise in environmental justice communities often present unique challenges. It is also important for enforcement personnel to bear in mind that the level of community interest may vary depending upon the specifics of the case and the nature of the potential violations. There is no single technique, appropriate, in every matter for determining how to keep community members informed and solicit their views. It is expected that by utilizing existing enforcement standard operating procedures and these guidelines, Regional enforcement staff should, if appropriate:

- C identify potential EJ communities and enforcement matters involving such EJ communities;
- C ensure that violations that involve identified EJ communities are handled in an expeditious and thorough manner;
- C keep the community informed of developments; and
- C as appropriate, seek early community input regarding the resolution of such matters.

Enforcement staff should conduct an initial screening (See Section 2.2.1) during the preparation of each regulatory civil enforcement matter to determine if one or more of the following criteria are met:

- C Resolution of the proposed enforcement matter is likely to require an extended compliance schedule of one year or more, or
- C The proposed enforcement matter is likely to yield a penalty of \$100,000 or more.

Where either of the above two criteria are met, or where the enforcement action involves a facility in an area where environmental justice concerns have been previously expressed, enforcement staff should either (i) conduct the analysis as provided in Section 2.2, or (ii) where appropriate, to expedite the resolution of the enforcement matter, treat the community of concern as if it were determined to be an actual EJ community.

#### **4.2 Implementing Environmental Justice in the Enforcement Process.**

Where one or more of the above criteria are met, enforcement personnel should consider enhanced public outreach throughout the three stages of the enforcement process as discussed below. It is recognized that not all cases will be the same. Therefore, the enforcement staff should exercise judgement concerning the kinds of activities that are appropriate to the case, recognizing their responsibility under the EO and Agency's policy to incorporate EJ into all aspects of EPA's programs when authorized to do so.

##### **4.2.1 Initiation of Enforcement Actions.**

EPA often issues a press release to announce a major enforcement action. For EJ matters, the enforcement staff should consult with CD as to the appropriateness of providing additional information to local, affected communities, taking into account both the enforcement sensitivities related to the action and the level of community interest. At the initiation of enforcement actions that involve EJ concerns, in addition to coordinating with the EJ Coordinator, enforcement staff should consider:

- C contacting Region 2's Communications Division (CD) and working with the appropriate CD staff assigned to assist enforcement staff on a particular matter;
- C working with CD to develop a communications plan that is appropriate for the particular enforcement action;

- C whenever possible and appropriate, providing notice to individuals and groups who are expected to have an interest in the action, this should be done in consultation with CD which will assist in customizing notice to particular groups and individuals who may be interested in the action.

#### **4.2.2 Processing of Enforcement Actions.**

After enforcement actions have been initiated, the affected community and other interested persons or groups should be kept informed of the progress of an enforcement action, as appropriate and pursuant to the Communications Plan developed pursuant to Section 5.2. For cases that reach a hearing (either administrative or judicial), the enforcement staff should, as appropriate, keep concerned citizens informed of significant milestones in the litigation process.

#### **4.2.3 Negotiation and Settlement of Enforcement Actions.**

Settlement discussions are a particularly sensitive phase with respect to community outreach. The specific terms of settlement discussions are generally confidential and ordinarily should not be discussed with the general public. Community input will be solicited, as appropriate, in enforcement action resolutions as discussed below, particularly if major SEPs (Section 4.2.4) or compliance activities may be involved.

- C Penalties In calculating a penalty, enforcement should employ EPA recognized Enforcement Response Policies. Consistent with the relevant penalty policies, the enforcement team staff should ensure that the penalty amount reflects the seriousness of the violation given existing burdens in the community.
- C Injunctive Relief Where a facility cannot immediately come into compliance, the schedule for compliance may be a matter of intense public concern. Similarly, depending on the nature of the case, other aspects of injunctive relief may have an impact upon the community.

To the extent possible and appropriate in a given case, the enforcement staff should seek to include in the settlement of the action provisions benefitting the community, such as:

- C to encourage the responsible party to agree to provide information or other outreach to the community;

- C to facilitate citizen information committees for ongoing community involvement in longer-term remedies;
- C to foster participation from the affected community in monitoring compliance at the facility; or
- C to provide technical assistance to the community.

#### **4.2.4 Supplemental Environmental Projects (SEPs).**

The Agency's 1998 "Supplemental Environmental Projects Policy" actively encourages the use of creative settlement approaches in enforcement actions. Such approaches may have particular applicability where violations have been identified in communities disproportionately impacted by environmental problems. As always, the enforcement staff have discretion in determining how to settle cases consistent with applicable EPA policy and guidance. The SEP policy encourages the Regions to obtain SEPs which promote pollution prevention and remedy environmental damage to reduce long-term exposures within affected communities.

The enforcement staff should encourage, whenever appropriate in discussions with the violating facility, the development of SEPs. Where appropriate, the affected community should be involved in development of the SEPs. Any SEP should be developed in accordance with the Agency's SEP Policy. The degree of community involvement will depend on the range of potential allowable SEPs feasible for the enforcement action.

#### **4.2.5 Actions Involving Indian Nations.**

Whenever a potential enforcement action involves a federally-recognized Indian Nation in any way, in addition to referencing this Interim Policy, enforcement staff should be advised that appropriate Agency guidance must be followed to ensure that EPA acts consistent with its trust responsibility and "government-to-government" relationship with the Indian Nations. This policy applies when a facility is:

- C located within or near Indian country (even if owned and operated by non-Indians); and
- C owned or operated by an Indian Nation.

Situations involving any of these factors should be brought to the immediate attention of Region 2 Indian Coordinator .

## **5.0 Environmental Justice and Community Involvement Guidelines**

These Guidelines provide Regional program managers and staff with guidance for conducting effective and early outreach, and to outline steps that they can take to determine the appropriate level and type of outreach that will provide communities with environmental justice concerns the opportunity to have input into EPA's work and decision-making processes. Regional staff should keep in mind that community involvement activities will vary depending on the nature and complexity of the issues involved and the level of community interest. (See Appendix 4 for Region 2's Environmental Justice and Program Contacts).

The degree to which the outreach steps outlined below are most appropriate will correspond to those specific situations in which EPA has determined enhanced community outreach is necessary.

### **5.1 Identifying the Community Stakeholders and Concerns**

Developing a relationship with the concerned and/or affected community's organizations and residents is essential for enhanced public participation. Stakeholders may include, but are not limited to:

- Community and neighborhood groups;
- Community service organizations (health, welfare and others);
- Environmental organizations;
- Local industry and business (including the individual employees);
- Religious communities;
- Not-for-profits and non-governmental organizations; and
- Government agencies (federal, state, county, local and tribal).

### **5.2. Prepare a Community Involvement Plan**

Based on the level of community interest and the complexity of the concerns, Region 2 staff may determine that the development of a Community Involvement Plan (CIP) is appropriate. The CIP should outline the community's concerns, strategies to address those concerns, and planned community involvement activities. The CIP should also include:

- A list of methods identified by the community as effective ways to share information (see suggested methods listed below);
- Locations identified as convenient for public information sessions;
- Location for an information repository; and
- List of local media outlets used by the community.

The CIP should be provided to affected stakeholders for review to ensure that their concerns are properly understood and that the involvement activities are responsively designed.

### **5.3 Methods to Inform and Involve the Community**

Regional staff should always consult with the community to determine the most effective and appropriate methods for informing and receiving input from the community. Some of these methods may include:

Public Meetings and Availability Sessions - A public meeting is a more formal meeting in a large group setting with an outlined agenda and presentations. An availability session is an informal meeting, which provides opportunities for community representatives to question federal representatives and provide input on a one-on-one basis. In addition, obtaining time on the agendas of regularly scheduled neighborhood meetings is recommended. Here are some tips for a successful community meeting:

- Provide sufficient advance notice of meeting dates through a notification process that the community identifies as most effective;
- Host meetings in neutral and easily assessable locations at convenient dates/times;
- Create an informal and physically comfortable environment conducive to open discussion;
- Give the community an opportunity to have input into the agenda;
- Do a run through of any presentations planned by EPA staff to ensure that the information conveyed is in understandable, non-technical terms with the appropriate visual aids. In particular, explain and/or minimize the use of acronyms; and
- Bring posters, maps and other visuals that may help the community

better understand specific environmental or technical issues.

Communication Materials - Some effective materials and methods for sharing information with the community are:

- Direct mailings of fact sheets or community updates (a mailing list should be developed);
- Distribution of materials to and through community centers and local government offices and groups;
- Local newspaper notices (preferably appearing on a regular news page, not in the legal/public notice section);
- Press releases or public service announcements issued to local media; and
- Region 2 Communication Division's Public Outreach Branch will work with regional staff to draft press materials.

Technical Assistance Workshops - Technical seminars and training workshops can be effective mechanisms to build a community's capacity to better understand the technical and complex issues surrounding their concerns, the roles the various government agencies, and the policies that may impact those issues. Application assistance workshops and one-on-one application assistance are also available for communities with EJ concerns.

Another key resource for guidance on how to effectively involve communities is the "The NEJAC Model Plan for Public Participation," which was developed in November 1996 by the National Environmental Justice Advisory Council (NEJAC), EPA's federal advisory committee on Environmental Justice matters. The plan was developed to provide the Agency with guidance on enhancing public participation. The plan can be accessed at: <http://es.epa.gov/oeca/oej/nejac/pdf/modelbk.pdf>.

## **6.0 ENVIRONMENTAL JUSTICE AND THE EPA SUPERFUND PROGRAM GUIDELINES**

### **6.1 Identification of Potential Environmental Justice Superfund Sites**

Steps 1 through 6, as provided for in Section 2.2, should be done for all new National Priorities List (NPL) sites to determine whether the community affected by the NPL site is a minority or low-income community. The analysis should be completed during development of the site listing and incorporated into the Community Involvement Plan (CIP) for the site. The CIP outlines the Agency's plan to include the public through the development of a site clean-up plan.

Should the demographic analysis show that the new NPL site is located in an potential EJ community, then the CIP will be geared towards the needs of that community. Depending on the constituency and the particular needs of the affected community, traditional and, as appropriate, non-traditional community interaction techniques will be employed to engage the environmental justice community and ensure meaningful and early public involvement in the planning phase for the ultimate cleanup of the site. Routine community involvement techniques for the Superfund program include a CIP, fact sheets, community interviews, public meetings, public availability sessions, Technical Assistance Grants (See Appendix 2), responsiveness summaries and information repositories. Additional community involvement techniques might include translation of key documents into the appropriate language to serve the community, outreach to the community through local churches and enlisting the support of community leaders in order to reach the truly affected community. If the NPL site is on or near Indian or tribal lands, the Region 2 Indian Program Coordinator will be notified, as will the appropriate tribe.

### **6.2 Exceptions**

#### **6.2.1 Disproportionate High and Adverse Burden.**

Superfund law requires a site-specific risk assessment to determine whether there are any cancer risks or non-cancer health hazards associated with a site. Should such risks or hazards exist, the Superfund law requires cleanup of the site to levels which are protective of human health and the environment, which will serve to minimize any disproportionately high and adverse environmental burdens impacting the EJ community. An environmental burden analysis may, however, indicate the need for other EPA programs to take action, or may provide information to modify implementation of the selected remedy. In addition, there may be other

remedies available in a community to address a disproportionately high and adverse environmental burden, such as working with other active facilities in the area, whether Superfund-related or not, to reduce the environmental load associated with these facilities. In any event, all EPA program offices will be made aware of the issues involved for use in future permitting and/or enforcement actions in the designated EJ community.

### **6.2.2 Emergency Response Measures**

Superfund emergency response and time critical removal actions normally provide a much shorter time for Agency action, therefore, case-by-case determinations will be made regarding the implementation of this policy. As appropriate, the analysis provided in Steps 1 through 3 will be performed to determine whether the site of concern involves a low income or minority community to ensure the Agency considers additional community techniques as described in Section 6.1 above.

## **LIST OF APPENDICES**

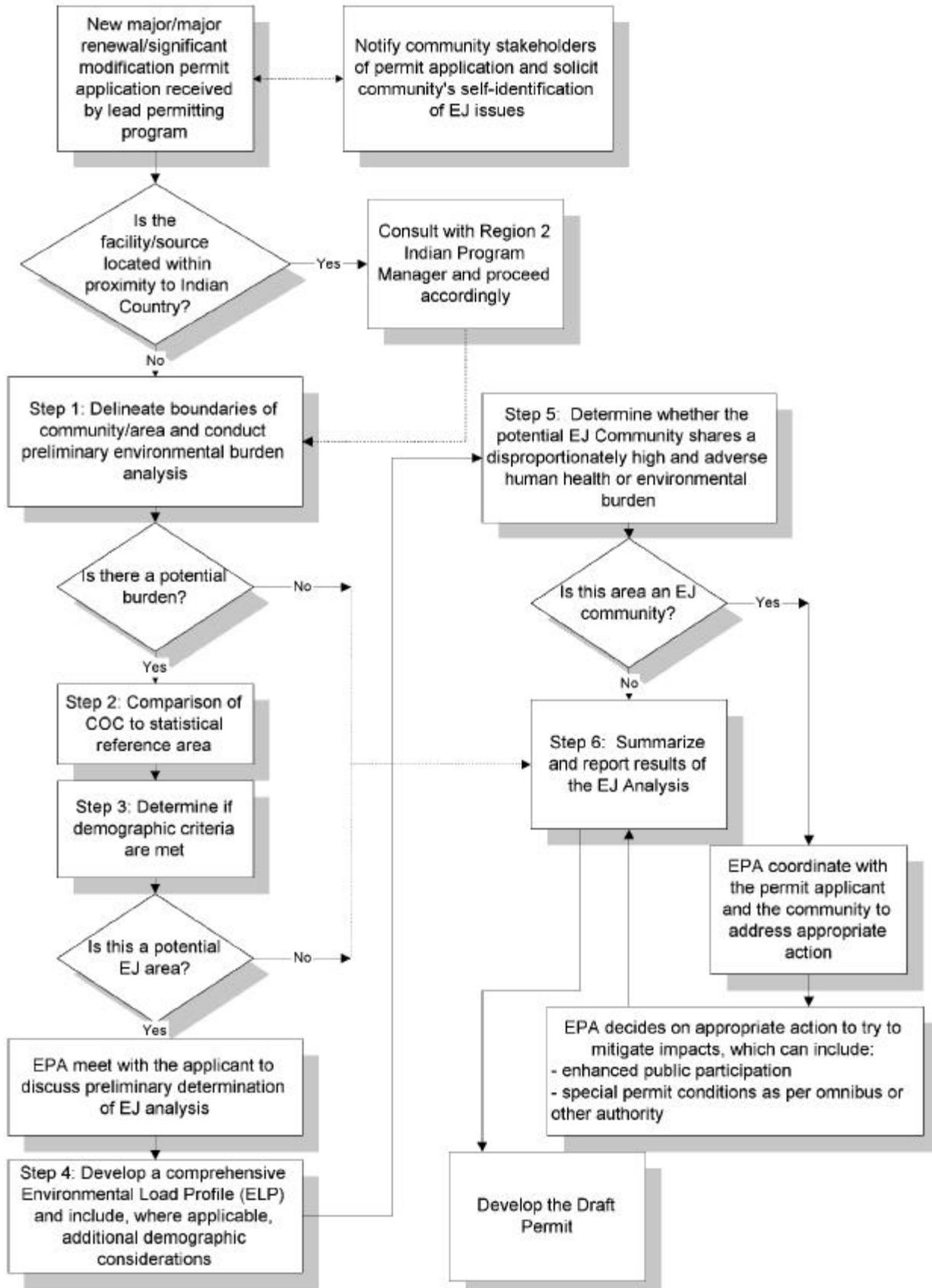
- Appendix 1**    **EPA REGION 2 PROCESS FOR FACTORING ENVIRONMENTAL JUSTICE INTO PERMIT DECISION-MAKING FLOW CHART**
- Appendix 2**    **EPA REGION 2 COMMUNITY GRANTS PROGRAM**
- Appendix 3**    **GLOSSARY OF TERMS**
- Appendix 4**    **REGION 2 ENVIRONMENTAL JUSTICE AND PROGRAM CONTACTS**
- Appendix 5**    **TABLE: DESCRIPTION OF PERMIT TERMS (PROGRAM-SPECIFIC)**

**Appendix 1**

**EPA REGION 2 PROCESS  
FOR FACTORING ENVIRONMENTAL JUSTICE  
INTO PERMIT DECISION-MAKING**

***FLOW-CHART***

## Appendix 1 *Flow Chart: EPA Region 2 Process for Factoring Environmental Justice into Permit Decision-Making*



## Appendix 2

# EPA REGION 2 COMMUNITY GRANTS PROGRAM

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EPA Region 2 administers a variety of grant programs that serve communities. These grant programs are administered out of different offices, both at Headquarters and the Regional office. In the fall of 1995, Region 2 initiated the Community Grants Program (CGP) Workgroup in order to ensure that the programs have a well coordinated approach. The Workgroup began to look at ways to assist stakeholders/potential grant applicants (e.g., states, local, and tribal governments, private non-profit organizations, and small communities) in accessing the array of EPA grants available to them and make recommendations which would allow the Region to better address community needs.

The following Fact Sheet chart depicts those Community Grants offered for community/stakeholder participation.

Information is also available on the Community Grants web page at:  
<http://www.epa.gov/docs/Region2/cgp/cgphmpg.htm>

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2 (NY, NJ, PR, and VI)  
COMMUNITY GRANTS PROGRAM  
FACT SHEET**

Grant Program	Environmental Justice (EJ)	Brownfields Grants	Environmental Monitoring for Public Access & Community Tracking (EMPACT)
<b>Purpose</b>	To provide financial assistance to eligible community groups, and federally recognized tribal governments that are working on or plan to carry out projects to address environmental justice issues.	To empower localities to work with public and private stakeholders to prevent, assess, safely cleanup, and sustainably reuse abandoned, idle or underused properties where real or perceived contamination has impeded development.	To establish pilot programs which collect and communicate time-relevant environmental monitoring information so that it can be used to help individuals make informed day-to-day decisions about their health and environment.
<b>Eligible Applicants</b>	Any affected community group, non-profit organization, university, or tribal government. Organizations must be incorporated to receive funds.	Political subdivision and Indian tribes are eligible to apply for Brownfields Assessment Demonstration Pilots; existing Assessment Pilots are eligible to apply for Revolving Loan Fund Pilots; non-profit training center, colleges and public entities that serve existing Assessment Pilot areas are eligible to apply for Brownfields Job Training and Development Pilot funds.	Local governments in on of the seven Region 2 EMPACT metropolitan areas: Albany-Schenectady-Troy, Buffalo-Niagara Falls, New York City-Northern New Jersey-Long Island, Philadelphia-Wilmington-Atlantic City, Rochester, San Juan, and Syracuse.
<b>Award Amount</b>	Up to \$20,000 granted	\$200,000 Assessment Pilots \$200,000 Job Training Pilots Up to \$500,000 for Revolving Loan Fund Pilots (these are 5 year projects).	Up to \$400,000
<b>Matching Share</b> (Contributions may be cash or in-kind)	No matching share required	No matching share required, however competitive projects leverage existing brownfields revitalization and job training efforts.	5% cost sharing required.
<b>Timeframe</b>	December to March	For schedule, see notice published in Federal Register. Information also available on Internet: <a href="http://www.epa.gov/brownfields">www.epa.gov/brownfields</a>	December-April solicitation, Applications due April 10, 2000
<b>Grant Selection Announced</b>	June	For schedule, see notice published in Federal Register. Information also available on Internet: <a href="http://www.epa.gov/brownfields">www.epa.gov/brownfields</a>	November 2000
<b>Priorities</b>	<p>Projects that improve the environmental quality of the community by:</p> <p><i>Having wide application or addressing a high priority issue.</i></p> <p><i>Enhancing skills in addressing EJ issues and problems.</i></p> <p><i>Establishing or expanding information systems for communities.</i></p> <p><i>Facilitating communication, information exchange and community partnerships.</i></p> <p><i>Motivating the public to be more conscious of EJ issues, leading to action to address those issues.</i></p>	<p><i>Assessment pilots: Projects committed to involving effected stakeholders in selecting brownfields sites and in developing clean-up and reuse plans.</i></p> <p><i>Projects that complement existing community revitalization efforts.</i></p> <p><i>Cleanup Revolving Loan Fund Pilots - Applicants that demonstrate there is an effective institutional structure in place to manage a revolving loan fund and environmental cleanups.</i></p> <p><i>Job Training Pilots - projects that will spur local job creation in communities impacted by brownfields by training local residents in the handling and removal of hazardous substances. Training must include the application of innovative environmental technologies.</i></p>	<p><i>Use of new technology or existing innovative technology for time-relevant measurement/ monitoring of environmental data;</i></p> <p><i>Application of information management, processing and delivery system technologies (including the provision of an Internet homepage for the project);</i></p> <p><i>Communication of timely environmental information to the public in an easily understood and readily accessible format;</i></p> <p><i>Emphasis on a community-based approach;</i></p> <p><i>Involvement of all relevant stakeholders; Development of partnerships and consortium building; and</i></p> <p><i>Project sustainability and transferability.</i></p>
<b>Contact Person</b>	Natalie Loney	Nuria Muñiz	Donna Ringel
<b>Telephone Number</b>	212-637-3639	212-637-4302	732-321-4383

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2 (NY, NJ, PR, and VI)  
COMMUNITY GRANTS PROGRAM  
FACT SHEET**

<b>Grant Program</b>	<b>Environmental Justice through Pollution Prevention</b>	<b>Superfund Technical Assistance Grants</b>	<b>Pollution Prevention Incentives for States</b>	<b>Environmental Education (EE)</b>
<b>Purpose</b>	To empower low income, high minority communities through education on environmental issues and the provision of pollution prevention resources for addressing these issues.	To enable a group of individuals who are affected by a site on the Superfund National Priorities List (NPL) to obtain technical assistance in interpreting information regarding the site.	To support state agencies in demonstration projects, or in establishing pollution prevention infrastructure in a wide range of sectors.	To provide financial support for projects which design, demonstrate or disseminate environmental education practices, methods or techniques.
<b>Eligible Applicants</b>	Any nonprofit organization incorporated under IRS tax code 501(c)(3), federally recognized Indian tribal government, state, city, county or local government organization.	Groups affected by an NPL site. All groups must be incorporated as nonprofit organizations.	States, state agencies & inter-municipalities, territories and possessions. States are encouraged to form partnerships with non-profit organizations and/or local governments.	Local or tribal government education agency, state government education or environmental agency, college, university, nonprofit organization, noncommercial broadcasting entity.
<b>Award Amount</b>	Not yet established	Up to \$50,000 initially; in the case of complex sites, additional funds may be available.	No limit. FY'99 Region 2 share \$469,500.	Up to \$25,000 granted by regional office; \$25,001-\$250,000 EPA Headquarters
<b>Matching Share</b> (Contributions may be cash or in-kind)	No matching share required	20% non-federal government matching share required	50% non-federal government share of project total required.	25% non-federal government matching share required.
<b>Timeframe</b>	Not yet established.	Applications may be submitted after a site is proposed for listing on the NPL.	2 years	August - November solicitation. Applications due mid November.
<b>Grant Selection Announced</b>	Not yet established.	After community notification period (30 to 60 days), application review and processing time, and approval.	3 <sup>rd</sup> quarter of federal fiscal year	Summer
<b>Priorities</b>	<p><i>Projects by community based organizations and local governments that improve the environmental quality of affected communities using pollution prevention as a primary solution;</i></p> <p><i>Proposals that encourage institutionalization &amp; innovative use of pollution prevention as the preferred approach for addressing environmental justice issues, &amp; whose activities and products can be supplied to other communities; and</i></p> <p><i>Cooperative efforts with business/industry to address pollution prevention goals.</i></p>	<p><i>Because only one grant is available for each NPL site, EPA encourages groups to consolidate in order to provide technical assistance to the most widely representative group of individuals possible.</i></p> <p><i>To this end, EPA notifies the community via a public notice in the local newspaper if an application is received from an eligible group.</i></p>	<p><i>Projects targeting areas identified as among the highest in Region 2 environmental risks;</i></p> <p><i>Programs addressing transfer of potentially harmful pollutants across all media: air, land, and water; and</i></p> <p><i>Technical assistance/training provided to businesses in source reduction techniques.</i></p>	<p>1) <i>All proposals must satisfy the definition of "environmental education" in the current solicitation notice.</i></p> <p>2) <i>Projects must focus on one of the following:</i></p> <p><i>Educating teachers, students or public about environmental health threats especially as they affect children; or</i></p> <p><i>Building state, local or tribal government capacity to develop EE programs;or</i></p> <p><i>Utilizing E.E. to advance education reform; or</i></p> <p><i>Educating the public about community environmental issues through community based organizations or the media; or.</i></p> <p><i>Improving educators' E.E. teaching skills; or</i></p> <p><i>Educating students about environmental careers; or</i></p> <p><i>Educating low income and culturally diverse audiences about environmental issues.</i></p>
<b>Contact Person</b>	Deborah Freeman	Carol Hemington	Deborah Freeman	Teresa Ippolito

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## GLOSSARY OF TERMS REGION 2 ENVIRONMENTAL JUSTICE INTERIM POLICY

Adverse Environmental Burden	When there is an acknowledged health or welfare standard for the burden in question, the burden is adverse when it exceeds that standard. When there is no standard, the decision is based on additional site-specific analysis.
AFS	USEPA AIRS Facility Subsystem
AIRS	USEPA Aerometric Information Retrieval System, the database containing the Agency's air-related data.
American Indian or Alaskan Native	A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliations or community attachment. This shall include all indigenous populations within Region 2, regardless of their affiliation with a federally-recognized Tribe.
Asian	A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
Black or African American	A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

Block	Census blocks are small areas bounded on all sides by visible features such as streets, roads, streams, and railroad tracks, and by invisible boundaries such as city, town, township, and county limits, property lines, and short, imaginary extensions of streets and roads.
Block group	A unit for the census data reporting formed by a cluster of census blocks. Census block groups generally contain between 250 and 500 housing units.
Census	An official enumeration of the population, with details as to race, age, gender, income, etc.
CERCLIS	Comprehensive Environmental Response, Compensation and Liability Information System, a database containing information on Superfund sites.
Community Input	Information provided by representatives of an affected community on neighborhood boundaries, health concerns, etc.
Community of Concern	A community that is the subject of an Environmental Justice analysis involved in a proposed Agency decision.
Cumulative Exposure	Exposure analysis to the multiple environmental contaminants, including exposures originating from multiple sources.
Disproportionate Burden	A pronounced imbalance of negative environmental or public health impacts (either individual, cumulative, or area-wide) in comparison and relation to a reference

area.

EJ

Environmental Justice

EJ Area

A minority and/or low income area suffering a disproportionate and adverse environmental burden as a result of the unfair or unequal development, implementation, or enforcement of environmental laws, regulations or policies (the same as an EJ Community or EJ Population).

EJ Assessment

Assessment provided under this Interim Policy to evaluate whether a specific community in EPA Region 2 is an EJ Area.

EJ Community

A minority and/or low income community suffering a disproportionately high and adverse environmental burden as a result of the unfair or unequal development, implementation, or enforcement of environmental laws, regulations or policies (the same as an EJ Area or EJ Population).

EJ Population

A minority and/or low income community suffering a disproportionate and adverse environmental burden as a result of the unfair or unequal development, implementation, or enforcement of environmental laws, regulations or policies (the same as an EJ Area or EJ Community).

Environmental Burden

A negative human health or environmental effect on a particular community or segment of the population related to a specific source or sources, resulting from exposure to individual, cumulative and/or area-wide sources.

Environmental Impact

See *Environmental Burden*.

Environmental Justice	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. Fair treatment means that no groups of people, including racial, ethnic, or socioeconomic group, should bear a disproportionate share of negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.
Environmental Load Profile	A representation of the environmental load in a community, which is based on salient characteristics or elements that serve as indicators of environmental burden and provide a consistent basis for comparison.
Executive Order	Executive Order 12898 “Federal Actions To Address Environmental Justice In Minority Populations and Low-Income Populations,” issued by President William J. Clinton on February 11, 1994.
Ethnic Group	A group of people of the same race or nationality who share a common and distinctive culture.
Geographic Information System	An organized system designed to efficiently capture, analyze and display forms of geographically referenced information. Commonly, GIS is used to combine various data layers (for example, population demographics and environmental burden) to produce maps that display the layers together, allowing for convenient visual analysis.

Hispanic or Latino	A person of Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race.
Indian Country	All land within the limits of any Indian reservation under the jurisdiction of the U.S. government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States whether within or without limits of a state; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
Low-Income	Having an annual income that is less than a preassigned cutoff. The Interim Policy utilizes the U.S. Department of Health and Human Services poverty guideline as the cutoff.
Low-Income Community	A community that has a significantly greater population of low-income families than does a statistical reference area.
Minority	An individual or group of individuals that are Hispanic, Asian-American and Pacific Islander, African-American, American-Indian or Alaskan Native. (For EJ purposes, the term 'minority' does not address religion or national origin. It also does not include people who might be distinguished by sex, age or any type of disability).
Minority Community	A community that has a significantly greater population of minority individuals than does a statistical reference area.

Native Hawaiian or Other Pacific Islander	A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islanders.
NEPA	National Environmental Policy Act
NPL	National Priorities List
NYSDOH	New York State Department of Health
OEJ	USEPA Office of Environmental Justice
PCS	USEPA Permit Compliance System, a database of water dischargers.
Population Density	The number of people contained within a defined unit area, i.e., persons per square mile.
Poverty or Low-Income	The U.S. Census Bureau uses a set of money income thresholds that vary by family size and composition to detect who is poor. If a family's total income is less than that family's threshold, then that family, and every individual in it, is considered poor. The poverty thresholds do not vary geographically, but they are updated annually for inflation using the Consumer Price Index (CPI-U). The official poverty definition counts money income before taxes and does not include capital gains and noncash benefits (such as public housing, medicaid, and food stamps). Poverty is not defined for people in military barracks, institutional group quarters, or for unrelated individuals under age 15 (such as foster children). They are excluded from the poverty universe--that is, they are considered neither "poor" nor "nonpoor."

Range	The difference between the smallest and largest values in a statistical distribution.
RCRA	Resource Conservation and Recovery Act
RCRIS	USEPA Resource Conservation and Recovery Information System
Rural	Territory, population, and housing units that the Census Bureau does not classify as urban are classified as rural. (See definition for <i>Urban</i> )
Site-Specific Analysis	An analysis intended to assess whether a specific identified site or area (the Community of Concern) is an Environmental Justice area or poses Environmental Justice concerns.
STORET	USEPA Storage and Retrieval of Water-Related Data System
TIGER/line file	TIGER is the acronym for the digital (computer-readable) geographic database that automates the mapping and related geographic activities required to support the Census Bureau's census and survey programs, The Topologically Integrated Geographic Encoding and Referencing data format is commonly used in GIS analyses.
Title VI	Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000(d) et.seq., as amended.
TRIS	USEPA Toxic Release Inventory System. The TRIS database is a major source of contaminant release information for EJ analyses.
Urban	The Census Bureau defines urban as

comprising all territory, population, and housing units located in the urbanized area (UA) and in places of 2,500 or more inhabitants outside of UA's. An urbanized area is a continuously built up area with a population of 50,000 or more

## Appendix 4

### REGION 2 ENVIRONMENTAL JUSTICE AND PROGRAM CONTACTS

#### **Office of the Regional Administrator**

Terry Wesley, Environmental Justice Coordinator, Chair	-	(212) 637-5027
Shakeba Carter-Jenkins, Environmental Justice Assistant	-	(212) 637-3585

#### **Office of Policy and Management**

Barbara Pastalove - Chief, Policy Planning & Evaluation Branch, and EJ Division Contact & EJ Workgroup Member	-	(212) 637-3577
Rabi Kieber, Community-Based Environmental Program (CBEP) Coordinator	-	(212) 637-4448
Yvette Cardona, Region EJ Workgroup Member, Grants Contracts Management Branch	-	(212) 637-3409
Dana Williams, Equal Employment Opportunity Officer	-	(212) 637-3531

#### **Division of Enforcement and Compliance Assistance**

Lisa P. Jackson, Deputy Director,	-	(212) 637-4000
Laura Livingston, Region EJ Division Contact and EJ Workgroup Member	-	(212) 637-4059
Adrian Enache, Region EJ Workgroup Member	-	(732) 321-6769
Bea Sharrock, Region EJ Workgroup Member	-	(212) 637-4051

#### **Division of Environmental Planning & Protection**

Ronald Borsellino, Deputy Director, EJ Division Contact	-	(212) 637-3735
Walter Andrews, Chief, Water Programs Branch, EJ Division Contact & Member	-	(212) 637-3880
Muhammad Hatim, Region EJ Workgroup Member	-	(212) 637-3855
Christine Yost, Regional Indian Program Coordinator	-	(212) 637-3564
Janice Whitney - Indigenous Program Specialist	-	(212) 637-3790

**Division of Environmental Science & Assessment**

Shari Stevens, Chief, Hazardous Waste Support Section, - (732) 906-6994  
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**Caribbean Environmental Protection Division**

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**Office of Regional Counsel**

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**Emergency & Remedial Response Division**

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Vincent Pitruzzello, Chief, Program Support Branch, - (212) 637-4354  
 EJ Division Contact

Chelsea Albucher, Region EJ Workgroup Member - (212) 637-4291

**Communications Division**

Mary-Helen Cervantes-Gross, Chief, Public Outreach Branch, - (212) 637-3673  
 and Region EJ Division Contact

Natalie Loney, Region EJ Workgroup Member - (212) 637-3639

**Disclaimer:** *This Policy is intended to improve the internal management of EPA Region 2 with respect to environmental justice. This policy shall not be construed to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or by equity by a party against EPA or any right to judicial review.*