

EXECUTIVE SUMMARY

INTRODUCTION

This executive summary provides highlights of the thirteenth meeting of the National Environmental Justice Advisory Council (NEJAC), held December 7 through 10, 1998 at the Hilton Hotel in Baton Rouge, Louisiana. Each of the seven subcommittees met for a full day on December 9, 1998. In addition, on December 7, members of the NEJAC participated in a fact-finding tour of several communities in the Baton Rouge, Louisiana area to learn about environmental issues and concerns of importance to those communities. The NEJAC also hosted a public comment period on December 7, a second session on the afternoon of December 8, and third session on the evening of December 9. Approximately 450 persons attended the meetings and the public comment periods.

The NEJAC is a federal advisory committee that was established by charter on September 30, 1993 to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice. Mr. Haywood Turrentine, Laborers' District Council Education and Training Trust Fund (an affiliate of the Laborers' International Union of North America), serves as the chair of the Executive Council and arrived on December 9, 1998. On December 7 and 8, 1998, Mr. Tom Goldtooth, Indigenous Environmental Network and chair of the Indigenous Peoples Subcommittee of the NEJAC, served as proxy chair of the NEJAC in the absence of Mr. Turrentine. Mr. Robert Knox, Associate Director, EPA Office of Environmental Justice (OEJ), served as the acting Designated Federal Official (DFO) for the Executive Council. Exhibit ES-1 lists the chair and DFO of the executive council, as well as the persons who chair the seven subcommittees of the NEJAC and the EPA staff appointed to serve as the DFOs for the subcommittees.

OEJ maintains transcripts and summary reports of the proceedings of the NEJAC meetings. Those documents are available to the public upon request. The public also has access to the executive summaries of reports of previous meetings, as well as other publications of the NEJAC, through the World Wide Web at <http://es.epa.gov/oeca/oej/nejac/> and then click on

Exhibit ES-1

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL CHAIRS AND DESIGNATED FEDERAL OFFICIALS (DFO)

Executive Council:

Mr. Haywood Turrentine, **Chair**
Mr. Robert Knox, **Acting DFO**

Air and Water Subcommittee:

Dr. Michel Gelobter, **Chair**
Ms. Alice Walker, **co-DFO**
Dr. Wil Wilson, **co-DFO**

Enforcement Subcommittee:

Mr. Luke Cole, **Chair**
Ms. Shirley Pate, **DFO**

Health and Research Subcommittee:

Dr. Marinelle Payton, **Chair**
Mr. Lawrence Martin, **co-DFO**
Mr. Chen Wen, **co-DFO**

Indigenous Peoples Subcommittee:

Mr. Tom Goldtooth, **Chair**
Mr. Daniel Gogal, **Acting DFO**
Mr. Anthony Hanson, **Alternate DFO**

International Subcommittee:

Mr. Arnolando Garcia, **Chair**
Ms. Wendy Graham, **DFO**

Public Participation and

Accountability Subcommittee:

Ms. Rosa Hilda Ramos, **Chair**
Ms. Renee Goins, **DFO**

Waste and Facility Siting Subcommittee:

Ms. Vernice Miller, **Chair**
Mr. Kent Benjamin, **DFO**

the publications icon. The summaries are available in both English and Spanish language versions.

REMARKS

Mr. Goldtooth opened the meeting of the Executive Council by explaining the significance of holding a meeting of the NEJAC in Louisiana. He explained that he previously had toured Convent, Louisiana where he had observed the adverse environmental conditions that local communities must face on a day-to-day basis. Mr. Goldtooth then acknowledged the members of the community who had planned the fact-finding tour that members of the NEJAC had participated in. He noted how the members of the communities visited by the NEJAC had "talked from their hearts" about the health and environmental problems they confront.

Ms. Sylvia Lowrance, Principal Deputy Assistant Administrator, EPA Office of Enforcement and Compliance Assurance, highlighted several items of national interest that she noted required the attention and participation of the NEJAC that included, conducting the self-assessment of the NEJAC, completing the *Title VI Interim Guidance for Investigating Administrative Complaints Which Challenge Permitting Decisions*, and creating the new Air and Water Subcommittee of the NEJAC. She also provided an update of the activities of OECA offering several examples that demonstrate the progress OECA has made related to enforcement and compliance assurance, including:

- ▶ Assessing the largest civil penalty against the diesel manufacturing industry that used a variety of "defeat" devices used to avoid emissions standards in truck engines
- ▶ Controlling the release of 75 million tons of nitrogen oxides (Nox) and particulate matter into the atmosphere by developing a self-audit policy for industry
- ▶ Opening by OECA of nine compliance assistance centers across the country to help small businesses achieve compliance with environmental regulatory requirements

Ms. Lowrance concluded her remarks by introducing the newly appointed director of EPA OEJ, Mr. Barry Hill. She also acknowledged the efforts of Mr. Knox who had been serving as the acting director for more than a year. Mr. Hill's comments are summarized later in this summary.

Addressing the members of the NEJAC, Mr. Gregg Cooke, Regional Administrator, EPA Region 6, provided an update on the activities of the regional office related to matters of environmental justice. He noted that Region 6 had or was:

- ▶ Drafting a new policy on the implementation of environmental justice in the activities of the region
- ▶ Creating an environmental justice office in the region that includes five full-time staff members
- ▶ Awarding \$600,000 in grants, a 300 percent increase compared with the previous year, to several community organizations to help build capacity in local communities related to environmental justice
- ▶ Establishing an environmental justice public access site on the Internet as well as a new toll-free number

Mr. Cooke also cited specific targeted enforcement efforts in the state of Louisiana, such as the Calcasieu Parish Initiative to work with the local community to address environmental conditions in that parish. He concluded his remarks by expressing his belief that EPA and state and local governments must engage in building trust and confidence with local communities to solve environmental problems.

Mr. Hill began his remarks by stating that it was appropriate for the NEJAC to hold its 13th meeting in Louisiana because the state is home to more than 800 chemical and petrochemical industries and manufacturing facilities, many of which are concentrated along a 120-mile stretch of the Mississippi River.

Mr. Hill then focused his remarks on the future mission and goals of OEJ. He explained that the office has a broad mandate and has several key responsibilities which include:

- Serve as the agency's focal point for ensuring that all communities regardless of race, income, or economic status receive equal enforcement of protective environmental laws.

- Ensure that enforcement and compliance assurance activities of the agency address the concerns illustrated by calls for environmental justice and that these activities are coordinated to effectively address the concerns of affected communities.
- Advise the EPA Administrator and other senior officials of the agency on issues related to environmental justice.
- Serve as a clearing house and dissemination point of information related to environmental justice for the public, EPA, and other federal agencies.
- Serve as a conduit for all stakeholders involved in activities related to environmental justice.

Mr. Hill continued by informing the members of the NEJAC about what he believes the philosophy of OEJ should be and how to achieve the responsibilities identified above. Mr. Hill also announced how he plans to reorganize OEJ to better serve the needs of all stakeholders. He concluded his remarks by stating that it is essential for OEJ to provide to the EPA regional offices, state agencies, and local governments guidance on how to implement principles related to environmental justice into their programs and policies.

PRESENTATIONS

The Executive Council also heard presentations by the following individuals:

- Mr. Bradley Campbell, White House Council on Environmental Quality (CEQ), provided an update on the White House environmental justice listening session that was held in Los Angeles, California in July 1998. He announced that the CEQ is planning a second listening session to be held in March 1999 in New York, New York.
- Mr. Robert Brenner, EPA Office of Air and Radiation (OAR), and Ms. Corrinne Wellish, EPA Office of Water (OW), acknowledged the creation of the new Air and Water Subcommittee of the NEJAC. Mr. Brenner provided an update on OAR's activities related to environmental justice. Ms. Wellish

requested the assistance of the NEJAC to recommend an effective approach to increase outreach efforts related to fish advisories.

- Ms. Ann Goode, EPA Office of Civil Rights (OCR), provided an update on EPA's Title VI work group. She noted that seven cases were in an active state of investigation, with 15 full-time equivalent staff working on them.
- Mr. Charles Lee, Chair of the NEJAC Assessment Work Group, provided an update on the activities of the NEJAC Assessment Work Group. He commented that the work group would continue to involve all parties in its discussions on how to improve the processes related to the NEJAC.
- Dr. William Sanders, EPA Office of Pollution Prevention and Toxic Substances (OPPTS), and Ms. Janet Phoenix, National Lead Information Center, provided information about EPA's proposed lead standards.
- Dr. Maria Morandi, University of Texas School of Public Health and a member of the Integrated Human Exposure Committee of EPA's Science Advisory Board, provided information on the SAB's review of methodologies to determine disproportionate impact.
- Mr. Kent Benjamin, EPA Office of Solid Waste and Emergency Response (OSWER) and DFO of the Waste and Facility Siting Subcommittee of the NEJAC, provided an update on the fact-finding meeting of the Waste Transfer Work Group of the Waste and Facility Siting Subcommittee that was held in November 1998 in New York, New York.

OTHER ACTIVITIES OF THE NEJAC

On December 7, 1998, members of the NEJAC toured several communities in and near Baton Rouge, Louisiana. The fact-finding tour in the Baton Rouge area focused on the diversity of the area, partnerships and collaborations, successful community campaigns, and the continuing struggles of local communities.

The NEJAC hosted a public comment period on December 7, a second session on the afternoon

of December 8, and a third session on the evening of December 9. More than 63 people participated in the three public comment periods. Issues discussed during the public comment periods included concerns about the lack of oversight by EPA Region 6 over the Louisiana Department of Environmental Quality, the process by which EPA Office of Civil Rights conducted its analysis of the Select Steel Title VI administrative complaint, and the decision of EPA Region 6 to remediate the Agricultural Street Landfill site rather than relocating the residents living in the adjoining community.

COMMON THEMES

During the meetings of the Executive Council and its subcommittees, the members of the NEJAC discussed a wide range of issues related to environmental justice. Specific concerns of and commitments made by the NEJAC include:

- ▶ Expressing concern about the process of how EPA's OCR chooses to pursue administrative complaints filed under Title VI as well as the methodology that the office uses to decide whether discrimination has taken place.
- Expressing concern about how environmental programs are implemented by state and local agencies.
- Ensuring that the assessment of the NEJAC be conducted by independent parties.

Members of the NEJAC discussed the process of how EPA OCR determines which administrative complaints that have been filed under Title VI are selected for investigation. Members of the NEJAC expressed particular concern about the Select Steel case in Flint, Michigan which appeared to be placed on a fast-track while other administrative cases filed before the Select Steel complaint are still awaiting a determination of whether they will be investigated.

Members of the NEJAC continued to express concern about how environmental programs and laws are implemented by state and local agencies. Members recommended that training on environmental justice be offered to various stakeholders.

Several members of the NEJAC recommended that the NEJAC Assessment Work Group use independent sources to conduct analyses to determine the effectiveness of the NEJAC. Several members commented that an independent study would provide better information to the NEJAC Assessment Work Group.

SUMMARIES OF THE SUBCOMMITTEE MEETINGS

Summarized below are the deliberations of the members of the seven subcommittees of the NEJAC during their meetings.

Air and Water Subcommittee

The Air and Water Subcommittee of the NEJAC held its first meeting in Baton Rouge, Louisiana. The members of the subcommittee were provided information about the agency's air and water programs by Robert Perciasepe, Acting Assistant Administrator of EPA OAR, Mr. Robert Brenner, Acting Deputy Assistant Administrator of EPA OAR, and Ms. Dana Minerva, Deputy Assistant Administrator of EPA OW.

Members of the subcommittee discussed at length the four goals of the subcommittee which include:

- Foster an exchange of information between all stakeholders
- Develop creative, sustainable, and fair solutions to social and environmental challenges based on past lessons learned related to environmental justice
- Identify incentives related to pollution prevention and exposure reduction
- Recommend that cumulative effects be included as part of EPA's permit policies

Members of the subcommittee agreed to form work groups related to the four goals of the subcommittee.

Members also initiated work on a resolution to establish an urban air toxics work group to examine and develop recommendations for addressing environmental justice concerns

related to EPA's Integrated Urban Air Toxics Strategy.

Enforcement Subcommittee

Members of the subcommittee discussed at length a strategic plan related to the goals and objectives of the Enforcement Subcommittee. The members had agreed to target efforts toward the worst polluted areas; focus on state and tribal enforcement and citizen suits to ensure that principles of environmental justice are integrated; and to ensure that environmental justice is an integral part of all EPA's compliance assurance activities.

Members of the subcommittee held a joint session with the Air and Water Subcommittee to hear presentations from EPA OAR and EPA OW related to open-market trading of air emissions credits and air quality.

Members of the subcommittee also heard a presentation from Ms. Lowrance describing how the enforcement process works both within and outside of EPA.

Health and Research Subcommittee

Members of the subcommittee heard several presentations on community-based research from representatives of EPA, community groups, and other federal agencies. Members agreed to focus on community-based research as a priority issue. In addition, members of the subcommittee discussed at length the development of an appropriate model for community-based research.

Members also developed a proposed resolution in which the NEJAC would endorse the concept of community-based air monitoring. In addition, the subcommittee agreed to request that the NEJAC encourage EPA to support community-based air monitoring programs and to research creative funding sources, such as Supplemental Environmental Projects (SEP), for these programs.

Indigenous Peoples Subcommittee

Members of the subcommittee discussed the development of a consultation and collaboration guidance to provide assistance to federal and other agencies on how to participate in meaningful consultation with tribal governments and tribal communities. The members developed an outline and identified tasks to be completed by members of the subcommittee.

Members of the subcommittee also heard updates on the following cases related to environmental justice and indigenous peoples:

- The proposed construction of a reservoir in Newport News, Virginia that may adversely impact the Mattaponi Indian tribe.
- The proposed construction of a low-level nuclear waste storage facility in Ward Valley, California opposed by many tribes, including the Five Tribes of the Colorado River.
- The proposed construction of a residential and commercial development near the San Bruno Ohlone Shell Mound that may affect the sacred sites of the Ohlone Indian Tribe.

International Subcommittee

Members of the subcommittee discussed the proposed International Roundtable scheduled to be held in San Diego, California in July 1999. The proposed agenda would include a two and one-half day event, including a binational fact-finding tour of sites in the United States and Mexico, public comment and plenary sessions, as well as, breakout sessions to discuss environmental justice concerns related to the United States and Mexico.

Members of the subcommittee prepared a letter to the EPA Administrator requesting that EPA assist Mexico to clean up the Metales y Derivados lead smelter site in Tijuana, Baja California, Mexico.

Public Participation and Accountability Subcommittee

Members of the subcommittee forwarded a resolution to the Executive Council of the NEJAC requesting that the Public Participation and Accountability Subcommittee be dissolved and

that members of the subcommittee be reassigned to each of the other subcommittees of the NEJAC to ensure that public participation processes be integrated into their deliberations.

Members of the subcommittee also forwarded a resolution to the Executive Council of the NEJAC requesting that EPA create a work group to develop a model for the early participation of affected communities, such as those in Puerto Rico, in the decision making processes of EPA Region 2.

The subcommittee discussed revisions to the NEJAC Model Plan for Public Participation to specify that the document is intended for the conduct of public meetings, not for the process of ensuring public participation in decision-making processes of EPA.

Waste and Facility Siting Subcommittee

Members of the subcommittee discussed issues related to environmental justice and the administration of the Superfund program by EPA. The members of the subcommittee recommended that communities be protected as EPA delegates authority to tribes and states under Superfund.

Members of the subcommittee received an update from the Waste Transfer Station Work Group related to a fact-finding meeting held in November 1998 in New York City, New York. The work group will conduct an additional fact-finding tour in Washington, D.C. and then issue its findings from both tours.

Members of the subcommittee urged EPA to integrate considerations related to environmental justice into the planning and implementation of community-based environmental protection activities.

SUMMARY OF APPROVED RESOLUTIONS AND LETTERS TO THE EPA ADMINISTRATOR

This section summarizes resolutions and letters to the EPA Administrator that were discussed by the subcommittees and approved by the Executive Council of the NEJAC during the meeting.

The NEJAC approved the following resolutions:

- The NEJAC recommends to the EPA Administrator that the Public Participation and Accountability Subcommittee be dissolved and its members assigned to the other subcommittees of the NEJAC to ensure that concerns related to public participation are addressed within the context of program specific areas. In addition, the NEJAC requests that the NEJAC Protocol Committee establish a Public Participation and Accountability Work Group whose members would comprise of the former Public Participation and Accountability Subcommittee to serve as a “watchdog” for the NEJAC to ensure that the NEJAC continues to apply the principles of public participation in its deliberations and decisions.
- The NEJAC recommends to the EPA Administrator that the agency create a work group to develop a model for the early participation of affected communities, such as those in Puerto Rico, in decision-making processes in EPA Region 2.
- The NEJAC recommends to the EPA Administrator that EPA OPPTS:
 - S Disseminate the proposed 1998 Mercury Action Plan directly to all federally recognized American Indian and Alaska Native tribes and villages, Hawaiian Natives, state recognized tribes, tribal environmental and health managers and organizations, and the Indian Health Service
 - S Extend the 90-day comment period for the plan to allow sufficient time for comment from tribes
 - S Consult directly with federally-recognized American Indian/Alaska Native tribes and villages and Hawaiian Natives whose subsistence lifestyles are predominated by consumption of fish and other aquatic life

- S Provide educational and health information to tribes, the Indian Health Service, and the Bureau of Indian Affairs, on the danger of consuming mercury contaminated fish and other aquatic life
 - S Adopt a Mercury Action Plan and regulatory authority that seeks to eliminate anthropogenic mercury emissions by the year 2010, establish baseline standard emissions, and adopt enhanced reporting requirements for mercury emission sources.
 - The NEJAC recommends to the EPA Administrator that the Indigenous Peoples Subcommittee establish a work group to develop a consultation guidance for federal agencies and tribes.
- The NEJAC approved the following letters:
- The NEJAC recommends that EPA review the National Environmental Policy Act (NEPA) process used by the Bureau of Indian Affairs (BIA), U.S. Department of the Interior to prepare the environmental impact statement (EIS) for the pork production facility to be built on the Rosebud Indian Reservation, South Dakota.
 - The NEJAC recommends that EPA continue efforts to schedule a high-level meeting between the President of the United States and the Five Tribes of the Colorado River to discuss the proposed low-level nuclear waste facility in Ward Valley, California
 - The NEJAC requests EPA to assist Mexico in cleaning up the "Metales y Derivados" site located in Tijuana, Baja California, Mexico.
 - The NEJAC requests that EPA extend the comment period related to the agency's proposed regulations on lead.

NEXT MEETING

The next meeting of the NEJAC is scheduled for November 30 through December 2, 1999 in Crystal City, Virginia at the Crystal City Hilton Hotel. Planned activities will include two opportunities for the public to offer comment. Exhibit ES-2 identifies the dates and locations of future meetings as well as the issue the NEJAC will address. Please visit NEJAC's home page on the Internet at: <http://es.epa.gov/ocea/oej/nejac/register> or call EPA's toll-free environmental justice hotline at 1-800-962-6215 for further information about this pending meeting.

Exhibit ES-2

FUTURE MEETINGS OF THE NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

<u>Date</u>	<u>Location</u>	<u>Issue</u>
November 30 - December 2, 1999	Crystal City, Virginia	Permitting
May 16 - 18, 2000	Atlanta, Georgia	Public Health
October 24 - 26, 2000	Washington, DC	Interagency Environmental Justice Implementation