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August 29, 2023

Michael S. Regan, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator Regan,

The National Environmental Policy Act (NEPA) ensures agencies consider the significant environmental consequences of their proposed actions and informs the public about their decision-making. The U.S. Environmental Protection Agency (EPA) plays a unique role in the NEPA process:

- EPA has responsibility to prepare its own NEPA documents for compliance.
- EPA is charged under Section 309 of the Clean Air Act to review the environmental impact statements (EIS) of other federal agencies and to comment on the adequacy and the acceptability of the environmental impacts of the proposed action.

As you know, nearly three decades after the issuance of Executive Order 12898 on February 11, 1994 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”), President Biden has built upon and strengthened the federal government’s commitment to deliver environmental justice to all communities across America by signing a series of Executive Orders into place. The Administration’s ongoing efforts to advance environmental justice and equity are demonstrated through:

- Executive Order 13985 of January 20, 2021 (“Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”)
- Executive Order 13990 of January 20, 2021 (“Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis”)
- Executive Order 14008 of January 27, 2021 (“Tackling the Climate Crisis at Home and Abroad”)
- Executive Order 14052 of November 15, 2021 (“Implementation of the Infrastructure Investment and Jobs Act”)

- Executive Order 14057 of December 8, 2021 (“Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability”)
- Executive Order 14082 of September 12, 2022 (“Implementation of the Energy and Infrastructure Provisions of the Inflation Reduction Act of 2022”)
- Executive Order 14091 of February 16, 2023 (“Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”).

The most recent Executive Order 14096 of April 21, 2023 (“Revitalizing Our Nation’s Commitment to Environmental Justice for All”) directs every federal agency to work toward “environmental justice for all” and improve the lives of communities hit hardest by toxic pollutants and climate change.

In the spirit of these executive orders, we encourage EPA to set an example for the federal family and beyond, by weaving in best practices throughout the training curricula both for EPA NEPA/309 reviewers and external audiences. The content of the curricula should set a high standard of accountability and consistency in approach to maintain focus on beneficial outcomes to impacted communities. The intention is to uplift best practices so that they become an expectation throughout the NEPA process, and an example of how to deliver on the promise of environmental justice. Without a comprehensive understanding of and accountability to environmental justice, decision-makers may perpetuate or exacerbate existing disparities faced by communities overburdened by environmental harms and marginalized in government processes. Environmental justice training is crucial to supporting more equitable and comprehensive NEPA processes, analysis, and decision-making. Training better equips decision-makers, including NEPA reviewers, with the necessary knowledge and tools to identify and evaluate potential environmental impacts and disproportionate burdens for communities of color, low-income populations, Tribes, Indigenous people, and communities that are overburdened by environmental harms and underserved by government processes.

One overarching concern about NEPA is that the process has become alarmingly disconnected from what should be at the core – the protection of people and ecosystems. The current NEPA process is often highly bureaucratic, performative, and a check-the-box requirement for project approval. Training could support a shift in process, approach, and review to one that centers and serves communities first as the primary client of the Agency.

To this end, NEPA training on environmental justice must connect reviewers to the human element inherent in this work. Beyond the technical aspects of environmental justice analyses, it is vital to continuously remind NEPA reviewers of the lives affected by the projects they are evaluating. This must include close examination of the real-life consequences of decisions made during the review process. By highlighting stories and experiences that fully demonstrate the impacts of projects on children, families, and community members, training can help reviewers recognize how their decisions shape the health and quality of life of those affected.

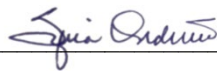
NEPA training should intentionally be designed to work through the lens of human impact and strive to cultivate a reviewer's care and accountability to the communities and environments affected by the decisions made in the course of their work. Training that does not foster a reviewer's sense of responsibility to community well-being will continue to fall far short of equitable and just outcomes.

It is worth mentioning that Congress must act to give NEPA more teeth. NEPA decisions have profound consequences for people and the environment that affect the well-being and resilience of communities today and for generations. Legislative changes must be made to make it a legally enforceable requirement that meaningful engagement is directly linked to the implementation of community-designed alternatives. Project planners should be *required* to change their plans to reflect community concerns, and NEPA-based decisions should, as a matter of course, lead directly to actions that reduce environmental and health disparities.

These recommendations are designed to compel EPA to meaningfully enforce NEPA and other environmental statutes, as well as Title VI of the Civil Rights Act of 1964 and EPA's associated regulations, which obligate EPA to consider cumulative impacts and ensure that recipients of federal financial assistance from EPA do not intentionally discriminate or have a discriminatory effect.<sup>1</sup>

Finally, the National Environmental Justice Advisory Council (NEJAC) plays a crucial role in advising EPA on matters related to environmental justice. Recognizing the significance of the NEPA process, NEJAC is providing the following set of recommendations to EPA on improving and enhancing training both internally at EPA and externally. NEJAC's recommendations highlight the importance of ongoing and evolving training on environmental justice, the incorporation of community expertise and local knowledge, cumulative impacts, interdisciplinary approaches, and consistency and accountability. The NEJAC looks forward to learning more from EPA on the agency's actions to advance recommendations in this report at the December 2023 NEJAC public meeting.

Sincerely,



Sylvia Orduño, Co-Chair



Na'Taki Osborne Jelks, PhD, Co-Chair

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<sup>1</sup> Please see pp. 4 and 45-46 of EPA Legal Tools to Advance Environmental Justice: Cumulative Impacts Addendum. <https://www.epa.gov/system/files/documents/2022-12/bh508-Cumulative%20Impacts%20Addendum%20Final%202022-11-28.pdf>.

cc: NEJAC Members

Office of Environmental Justice and Civil Rights Leadership

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# NEPA Workgroup Recommendations to the NEJAC

*August 2023*

## Part I: Internal Training

### 1. What training approaches or strategies would NEJAC recommend for EPA NEPA/309 reviewers seeking intermediate or advanced training on EJ issues, as related to NEPA/309 review process?

#### Current EPA Training Catalog - Recommendations

The current training format is online, using some polls, quizzes, homework, examples, and breakout rooms. Although the current training is multi-day and thoughtfully designed, attendees with no prior knowledge would *not* be equipped to begin reviewing after taking this introductory course, given the importance of the review, the amount of material to master, and the variety of scenarios that may be encountered. The introductory course should be strengthened, and the intermediate and advanced training should be designed to reinforce and deepen understanding from that foundation.

I.1.1. Develop training material with consideration of time, weighted by topic importance, relevance to reviewer knowledge, and time of day for productive learning. As we detail below, more of the training time should be spent on key topics and less on ancillary information. Given the amount of material to master, more difficult concepts should be presented earlier in the day. Reviews of material at the end of the session and the beginning of the next day should consist of lengthy polls and quizzes regarding important key material learned in the session. The results of the polls and quizzes should guide the trainers in areas where the attendees are weakest, and time should be set aside the next day for reinforcement. EPA should lead exercises in groups. A word document summary of key concepts presented each day or session is needed. Using the introductory course as an example, the historical background on NEPA, presented in the morning on the first day, is too lengthy. EPA should consider shortening the content in the beginning and moving the details to the end of a day so that the prime time of day for learning is available for key topics. In the current training materials, substantive learning does not begin until Module 2C. The question polls on topics such as “how long a NEPA review takes,” should be replaced with questions testing key reviewer knowledge, the number of questions should be greatly expanded, and the questions should be relevant and straightforward. Much more time should be allotted to a variety of in-depth examples (e.g., range of alternatives). Breakout group exercises could take more time compared to the benefits provided, given that attendees are likely to have mixed levels of experience. Turning the exercise content into poll questions or individual free response or having EPA leaders in each breakout room to facilitate may be more productive.

- I.1.2. Provide online training, in-person training, and regular office hours. Both online and in-person trainings are needed. The benefit of online training is providing access to more attendees who cannot travel. However, in-person training is also needed. Online training does not as easily allow for addressing individual attendee questions, tailoring training emphasis to the group, or ad hoc learning during breaks. Frequent in-person training (e.g., monthly) coupled with less frequent online training (e.g., annually) is needed. Regular online office hours where reviewers can pose questions in advance and EPA NEPA/309 reviewer trainers can provide answers or guidance in a format others can learn from is also needed. These sessions could also be focused on specific topics, with a review or example of the topic (e.g., alternatives, effects analysis, engaging communities, comment letters).
- I.1.3. Develop self-paced learning videos for key topics. EPA should develop a library of training videos to augment the formal training. These videos should focus on specific topics and include walkthroughs of projects that provide detailed information and step-by-step examples. This would include focused training on environmental justice considerations to identify and address potential disproportionate impacts, assessing cumulative effects, the process and data to identify communities of color or low-income populations, and examining equitable outcomes. The videos should include discussions with the community with EJ concerns, the local government, Tribes, and other potentially affected populations regarding their input and concerns about the project, including missteps or near missteps in the process.
- I.1.4. Update training content often to keep up with emerging concerns and methodologies. To ensure up-to-date methods and analysis, and timely engagement and incorporation of communities' environmental justice concerns, training should be updated and delivered routinely and frequently. For example, legal counsel and scholars' understandings of regulatory authority pertaining to NEPA change over time.

### **Additional Training Approaches and Strategies - Recommendations**

- I.1.5. Develop a publicly available database of NEPA EIS documents and technical reports. NEJAC members and others note distinct and troubling variations in the quality and approach in NEPA EIS technical reports on socio-economic impacts and environmental justice analyses and conclusions. To ensure consistency and incorporate emerging practices into NEPA processes, NEJAC recommends a publicly available centralized platform or repository for exemplary NEPA documents. A publicly accessible database of exemplary NEPA EIS documents would provide a source of information for evaluation, transparency, and learning, and might promote consistency across projects, agencies, and states. NEJAC envisions a database searchable by key categories such as type of project proposal, agency, year, availability of EJ technical report or analyses, and project determination.
- I.1.6. Promoting and updating the "Promising Practices" guidance document.<sup>2</sup> The "Promising Practices" guidance lays out some best practices regarding scoping and engagement. Some practitioners have suggested that the guidance is insufficient and confusing to follow. Advanced environmental justice training would benefit from:
- Case studies and exercises that demonstrate the application of promising practices to real world analyses and processes.

- Incorporation and guidance on current data, methods, and approaches for cumulative impacts analysis.
- Guidance and support to reviewers on increasing alignment with promising practices through their process and comments.
- Training and discussion about challenges practitioners have with the application of guidance from the promising practices document. This training element would also inform updates to the 2016 document.

I.1.7. Ensure accountability and understanding in leveraging the provisions of Title VI in support of environmental justice outcomes through the NEPA process. This should include the development of thinking and training on evaluating potential disparate impacts of proposals, public engagement standards of equitable and nondiscriminatory process and access, and clear review standards and guidance on Title VI compliance and enforcement mechanisms in the NEPA process.

I.1.8. Ensure diversity, representation, and lived experience in NEPA reviewer hiring. Recruitment and selection processes should actively seek candidates and support professional training and advancement of people who bring valuable expertise and understanding of environmental injustice through lived experience. This may include partnering with community-based organizations, academic institutions, and professional networks connected to underrepresented demographics at EPA and across NEPA reviewers. Investments in mentoring and networking with experienced professionals, professional development, and assessment and transparency of workforce demographics would improve accountability to representation, and potentially enhance the likelihood that the concerns and experiences of communities will be comprehensively considered and addressed.

I.1.9. Provide diversity, bias, and cultural humility training and accountability for NEPA reviewers who are assessing or reviewing potential project impacts on communities of color or other populations with environmental justice considerations. This should be required for all reviewers, especially if the reviewer has an identity and lived experience that differs from the potentially affected community. Training, at a minimum, should include information on cultural humility, power and privilege dynamics, and bias and assumptions. Accountability to this training, and application of this learning as a NEPA reviewer, could take the form of a peer-review process, including external and community evaluation of reviews for critical feedback.

I.1.10. Establish guidelines and pathways for NEPA reviewers to identify and elevate NEPA reviews to headquarters when cumulative burden concerns extend beyond the scope of the individual NEPA analysis. The intent of this recommendation is to develop a process and provide training that gives reviewers a mechanism to elevate the identification of highly impacted areas and communities. This is for cases where the cumulative burden will increase, but the regulatory framework and NEPA process do not allow agencies to deny a proposed action. NEJAC recommends creating a process to elevate the review to a higher authority.

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<sup>2</sup> [https://www.epa.gov/sites/default/files/2016-08/documents/nepa\\_promising\\_practices\\_document\\_2016.pdf](https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf)

## **2. What topics or content would NEJAC recommend EPA trainings include for EPA NEPA/309 reviewers to support EPA’s objective to help agencies reduce environmental impacts to communities with EJ concerns and improve the NEPA/309 reviewers’ understanding of impacts experienced by communities with EJ concerns?**

### **Current EPA Training Catalog - Recommendations**

I.2.1. Conduct polls/surveys/key informant interviews with the federal family NEPA/309 reviewers for topics where they feel the need for further instruction on EJ impacts and concerns, and develop materials based on results. Specifically, in the menti.com poll results from the taped training materials, the attendees responded to the prompt “where equity can be advanced [in their agency] and how this process can be integrated or institutionalized, such as in the NEPA process.” Responses included:

- “Utilizing authority to establish conditions or mitigation to benefit EJ.”
- “Public and NEPA coordination.”
- “More long-term stakeholder engagement with our marginalized communities.”
- “Using a variety of method in-person and virtual outreach methods.”
- “Less reliance on economics driving decision making.”
- “Planning/consideration of non-motorized vehicle users (such as pedestrians) in all aspects of planning and transportation projects.”

Exploring the thoughts behind these attendee suggestions and how to rectify concerns could provide material to strengthen equity. Asking the practitioners directly regarding where they see the need for training to better understand EJ concerns may be useful.

I.2.2. Conduct polls/surveys/key informant interviews with EJ groups that participated in past NEPA projects to understand what worked, what didn’t, what frustrated them, and what suggestions these groups may have to improve their involvement and ultimate outcomes going forward. Develop instruction materials based on results.

I.2.3. Develop storytelling video training materials that provide multiple detailed examples of how pre-NEPA planning information can be integrated into the EJ analysis, how project scoping informs EJ analysis, how to identify components to develop a profile for areas and communities with EJ considerations, how to conduct an effects analysis, and how to address cumulative impacts and disproportionate effects. The current training materials do not give enough concrete examples on each of these topics. The examples should include at least one project from each region; cover urban, suburban, and rural areas; include examples from each federal family; and reflect the diversity of communities and populations affected by environmental injustice. EPA should survey current EPA 309 reviewers to identify the suite of examples to include. The unique and far-ranging impact of environmental injustice for each of these communities should be represented in training and videos.



I.2.4. Provide examples of missteps for discussion. Insights from completed reviews may help reviewers avoid issues going forward. In the training, it would be useful to discuss what went wrong. For example, an Army Corps of Engineers (ACE) project in Houston, where dredge spoils exceed residential risk-based soil levels, is to be placed in an area with EJ considerations and received no comments from the NEPA/309 reviewer. Further, the public meeting(s) occurred in 2017 within a few weeks of Hurricane Harvey and had low attendance. Lone Star Legal Aid submitted detailed comments on the draft environmental impact statement on behalf of an EJ organization (Caring for Pasadena Communities) in November 2017, but these comments were ignored during the NEPA process. The larger EJ community, once aware, publicized their concerns broadly and requested support (which was granted) from the Mayor of Houston and EPA Region 6 to encourage the ACE to alter the project.<sup>3</sup> Training could have evaluated what went wrong and how to ensure and better support meaningful engagement.

I.2.5. Provide guidance on hierarchy of data reliability to aid in determining which data sources are appropriate for use in EJ evaluation and when data is old, incomplete, biased, or insufficient and additional data must be collected. For example, recent local, state, or federal government reports and peer-reviewed articles should be given more credence than sources that are older, non-peer-reviewed, or may be biased (e.g., documents from regulated actors). EPA should provide concrete guidance to address questions such as:

- How recent does the data have to be to be relevant?
- Are all partners represented?
- Does the author matter?
- Does the data cover the relevant project area?

Specific community level data (e.g., data obtained through community surveys, windshield surveys, information from community leaders, and public input) is key, but NEJAC would also like EPA to recommend specific survey methods (e.g., sample size, process) to ensure data quality. EPA should also provide guidance on whether community-level data supersede Census or American Community Survey data when the data are contradictory. EPA should also provide guidance on how to meaningfully consider – and not ignore – qualitative data.

I.2.6. Provide guidance to ensure there is a community review and input process. Engagement should happen early and often, and the communities being affected must be given ample opportunity and access in the form of financial compensation and cost reimbursement for providing time and input into the process. Reviewers should have the tools and framework for assessing the adequacy of engagement with the community. Training must convey that community input should have consequential authority and influence in the review process, and that NEPA documentation should reflect how the input informed analysis, determinations, and mitigation.

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<sup>3</sup> Houston Ship Channel Expansion Channel Improvement Project, Harris, Chambers, and Galveston Counties, Texas - Final Integrated Feasibility Report – Environmental Impact Statement. U.S. Army Corps of Engineers Galveston, District Southwestern Division. December 2019. <https://www.swg.usace.army.mil/Business-With-Us/Planning-Environmental-Branch/Documents-for-Public-Review/>

- I.2.7. Provide more specific guidance on how best to communicate with communities that can be difficult to reach or have been underserved by government processes. There are many people from rural areas, and it is important to make sure that communities, including Tribes, are aware at the start of any EIS processes affecting them. Effectively communicating about upcoming meetings or hearings requires more than posting a notice in the regional newspaper. EPA must learn about and understand the best ways to communicate with affected communities and incorporate this learning into NEPA trainings and other materials.
- I.2.8. Training should include historical and cultural context. The assessment of impacts is inextricably related to the history of communities, such as Native American communities and other communities of color. Training can provide a basic context for understanding cumulative impacts and disproportionate burdens. EPA must explain the historical inequities in which government agencies have been complicit in, how that has led to the production of social and environmental inequalities, and how EPA is therefore responsible for helping to rectify them. EPA must provide recommendations on how its staff conducts hearings and other meetings with community members. For instance, staff should not get defensive, and they should allow ample time for community members to provide input in multiple formats.
- I.2.9. Provide clear protocols for documenting community comments and information received during the NEPA process, including representation of community comments in the EIS discipline reports. Training would include standards for respectful and meaningful response to comments, and standards for incorporating community comments and perspectives within the environmental justice analysis.
- I.2.10. Provide explanations and details on data, criteria selection, and definitions. Training should give reviewers guidance on criteria for determining what constitutes up-to-date and credible data in NEPA environmental justice analysis. This would include guidance on data sources, data collection methods, data quality assurance, and data consistency. Further, training should instruct reviewers to ensure that analyses and reports provide clear explanations on basic elements of environmental justice analysis, such as how the study area and affected populations were chosen, the selection of thresholds, and how decisions around disproportionate impact were determined.

#### **Additional Training Approaches and Strategies – Recommendations**

- I.2.11. Develop plain language standards and ensure information is accessible. The NEPA process and associated documents are complex, technical, and lengthy. More often, NEPA-related documents for a proposal are difficult to access and hard to understand for a lay reader. NEPA reviewers and other project staff should be trained on best practices to provide access to and understanding of information related to NEPA process or project. This would include training on how to write effectively and consistently in NEPA reviews using EPA's standards of plain writing and language to help to make environmental impact and environmental justice analysis accessible and understandable to the public and communities – especially for the communities potentially affected by the proposal. This training should focus on translating technical jargon into clear and concise language, user-friendly formats, summaries, ensuring information is linguistically appropriate and digitally accessible, using visual aids and infographics, and employing inclusive and compliant communication strategies. NEPA reviewers should understand and have standards for evaluating the level of accessibility and data

transparency. Reviewers should be trained for and authorized to require plain language summaries of the proposed project, where it is, what it would do, and who it would impact and how. These materials should be distributed in the most effective and efficient way to the affected community or Tribe.

- I.2.12. Include training on trauma-informed analysis in the EIS process. An understanding of trauma and its long-lasting effects is an emerging area of understanding in community impact analyses. Training should include consideration of the potential trauma experienced by individuals and communities affected by government processes and interventions, environmental changes, and developments. This is an issue of notable concern for Tribal nations, Indigenous people, and other communities of color. Further, lack of understanding and training for reviewers, coupled with inadequate consultation and/or engagement, exacerbates or perpetuates injustice and harm. Colonial and white supremacist science, government, values, and decision-making processes may disregard, disrespect, and devalue the impact of multi-generational trauma, Indigenous knowledge, and community expertise. Recognizing and addressing trauma within the NEPA EIS framework supports a more comprehensive assessment of impact.
- I.2.13. Provide training on environmental justice. This training would include the historical context, key legislation, environmental justice principles, and specific training modules on environmental justice considerations, case studies, and practices in NEPA. This training would deepen NEPA reviewers' understanding about environmental justice issues, the potential impacts on communities with environmental justice concerns, and effective strategies for addressing these concerns in NEPA analysis and decision-making.
- I.2.14. Ensure an interdisciplinary approach: Reviewers should understand environmental justice considerations from several key fields including sociology, public health, economics, and psychology. Ideally, trainers and reviewers would be represented across these disciplines.
- I.2.15. Train reviewers to document and value community engagement and expertise. Training should emphasize the importance of community engagement and the community's role in the NEPA process. Training would support reviewing the adequacy of the public participation process and evaluating the effectiveness of strategies to engage with communities affected by proposed actions. Training would also support reviewing EJ technical reports for inclusion of public comments and information received through community engagement. This includes incorporating local knowledge, community member concerns, and community science into the EIS analysis and reports. Fundamentally, this requires training and accountability to value and represent local knowledge, expertise, and experience. EPA must dedicate resources to support integration of qualitative data into regulatory analyses.
- I.2.16. Provide guidance on equitable mitigation strategies. Training should teach reviewers how to identify and evaluate equitable mitigation strategies. Reviewers would learn how to assess the effectiveness of proposed mitigation measures to address environmental justice concerns, including

evaluation of how any proposed mitigation reflects and addresses community needs and concerns raised during public involvement and engagement.

- I.2.17. Use an integrated approach and seek collaborative partnerships. EPA should provide training that presents NEPA requirements as a starting point, rather than a ceiling. In other words, NEPA requirements should be approached as the minimum of what should be done, not the limit on what can be done. An integrated approach would expand the scope of review to include consideration of additional regulatory frameworks, policies, and internal programs and external agencies that could deepen impact analysis or potentially mitigate or eliminate project-related impacts. For example, training and awareness on funding opportunities could improve the affordability and likelihood of innovative and voluntary mitigation measures.
- I.2.18. Develop standardized EJ review processes. Develop a NEPA review process that focuses on consistency in environmental justice analysis and technical reports. This could include a framework for standardized headings, sections, and data that reviewers could use to assess whether environmental justice considerations have been included and adequately addressed. This recommendation supports consistency in reviewer approach for NEPA EJ analysis, ensuring that external reviewers include community members.
- I.2.19. Provide guidance and tools for ensuring the integrity and efficacy of environmental justice and engagement components (considering federal NEPA permitting streamlining efforts). Training would address and provide strategies and practices that could counter pressure or impacts from reduced public participation and engagement, expedited or less comprehensive environmental justice analysis, narrowed examination of cumulative impacts, and diminished transparency and accountability. EPA's "promising practices" guidance document<sup>4</sup> should be updated because some practitioners have opined that the guidance is confusing to follow.
- I.2.20. Develop in-person training to establish an anti-racist community of practice that includes peer feedback. Anti-racist training should be substantive in nature, for example at least 10 hours, or 1.5 days long. Training content examples include history of race, economic disenfranchisement, and environmental justice in the U.S. See Appendix A below for resources from non-governmental organizations.

### **3. How would NEJAC suggest EPA determine the effectiveness of the training of NEPA/309 reviewers to help other federal agencies ensure potential environmental and health burdens on a community with EJ concerns are fully analyzed and addressed?**

- I.3.1. Ensure public accountability and transparency to the NEPA review. Reviewers should provide the potentially affected community with accessible summaries of review findings, in clear, plain language.

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<sup>4</sup> [https://www.epa.gov/sites/default/files/2016-08/documents/nepa\\_promising\\_practices\\_document\\_2016.pdf](https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf)

- I.3.2. Conduct assessments and audits of NEPA processes and reviews across EPA regions to assess consistency in analysis and reviews. Assess NEPA reviews for consistency with training content and best practices – specifically a review of how environmental justice and cumulative impacts were identified, analyzed, and addressed. This will help identify barriers and gaps in reviews, identify where practices are not aligned with environmental justice standards, and provide information on addressing areas to strengthen accountability to environmental justice in NEPA technical analysis, reporting, and decisions. Assessments and audits of NEPA processes and reviews should more explicitly call for units, managers, and staff to be held accountable for conducting meaningful environmental justice analysis.
- I.3.3. Environmental justice and cumulative impact analyses should be conducted independently from conclusions drawn from each specific media sections (e.g., water, air, etc.). If an impact does not show up in one of the media sections of the EIS, the current norm is that the reviewers do not conduct a separate EJ analysis for that media. This can and does result in overlooking harms to overburdened areas and communities. At sites where various impacts are relatively low individually, the impacts may cumulatively constitute an adverse impact. However, current practices would miss the cumulative impacts that burden communities.
- I.3.4. Conduct external evaluations and gather community feedback to gauge the perceived effectiveness of NEPA reviews and analyses. Community members, affected populations, and environmental justice organizations should be given the opportunity to provide feedback through surveys, interviews, focus groups, and public forums.
- I.3.5. Ask independent external reviewers to audit NEPA reviews. These reviewers would evaluate the consistency and depth of the environmental justice analysis and conclusions. This could involve external experts or, potentially, a community advisory board to monitor and provide evaluation of the NEPA review process. Reviewers should include legal scholars with a demonstrated commitment to interpreting the regulatory authority to address cumulative impacts and other elements of environmental justice as robustly as possible in the NEPA review process.
- I.3.6. Create cross-agency partnerships to support peer reviews and collaboration among NEPA reviewers to share best practices, lessons learned, and emerging concerns. Establish a way for reviewers to participate in knowledge-sharing sessions to discuss methods and assessment.

## Part II: External Training

### 1. To effect practicable and measurable change in communities with EJ concerns, what approaches or strategies would NEJAC recommend for training communities and federal and state agencies?

- E.1.1. Encourage compensation for community engagements: Include guidance on providing compensation to community members and leaders for effectively engaging with project proponents and government in the NEPA process. Community and cultural liaisons are a critical component to successful community engagement. A community leader who is a paid to build bridges and break down barriers is often what makes community engagement efforts a success. Training should focus on accessing local resources such as grants and TCTAC support, coalition building, skills, and mechanisms to compensate community members on training development, implementation, and participation.
- E.1.2. Provide funding to community members or community-based organizations to develop and deliver community engagement training for NEPA processes. Community members and organizations can provide critical review of existing NEPA training and can advise on practices and expertise to develop training to effectively engage with their communities. Community members understand their unique needs and how to address barriers to engaging in government processes. Leveraging existing networks and expertise will better ensure the training is grounded in best practices, is inclusive of the diversity of community voices, and will also serve to build trust and relationships with EPA.
- E.1.3. Invest in long-term community capacity-building to support training and engagement in the NEPA process. Initiatives would include training, workshops, and collaborative capacity-building through community, community-based organizations, academia, foundations, and other entities. Collaborative learning spaces would support continuous learning about changes in NEPA regulations and processes, best and evolving practices, and connection to NEPA processes with similar environmental justice concerns and considerations regionally and nationally. Such initiatives could facilitate networking and collaboration among communities and organizations, promote models of success on common challenges, and amplify concerns and leverage resources to advance environmental justice.
- E.1.4. Establish an integrated approach that goes beyond the limitations of NEPA to address environmental justice and support reviews that are more comprehensive in assessing potential impacts to communities overburdened with environmental and health disparities. This approach would support NEPA reviewers to consider additional regulatory frameworks, authorities, policies, and impacts outside of the authority of EPA and NEPA. Reviewers should receive training, support, and authority to incorporate review of the multiple contributing factors to environmental injustice. These areas of review might include impacts on local businesses, economic development and gentrification, property value, employment opportunity, community cohesion, cultural preservation, educational access, healthcare services, public safety, and emergency services.

E.1.5. Require interagency collaboration among federal agencies, state and local governments, and community organizations to support environmental justice outcomes. This recommendation focuses on supporting a reviewer's engagement and practice in coordinated efforts to leverage external expertise, resources, and perspectives to develop more effective and comprehensive strategies for addressing environmental injustices.

E.1.6. Training contents need to be updated often to keep up with emergent concerns and methodologies: To ensure up-to-date methods and analysis, timely engagements, and incorporation of communities' environmental justice concerns, training should be updated and delivered routinely and frequently. For example, legal counsel and legal scholars' understandings of regulatory authority pertaining to NEPA change over time.

## **2. What content or topics would NEJAC suggest being included in training of federal and state agencies and communities to reduce adverse impacts to communities with EJ concerns, and how would that differ, if at all, from training for NEPA/309 reviewers?**

E.2.1. Include a comprehensive introduction to NEPA focused on understanding the purpose, scope, and key provisions of the legislation. This training should cover the NEPA process, including scoping, environmental impact assessment, engagement, and decision-making. Training would include the NEPA requirements to evaluate the potential environmental effects of proposed projects, identify impacts, assess alternatives, and analyze cumulative effects.

E.2.2. Provide guidance on public involvement, community engagement, and commenting: Provide training and support to potentially affected communities about the purpose of public involvement and engaging effectively in the NEPA process. This training should provide guidance on the rights of communities and people to participate in the NEPA decision-making process, NEPA best practices that support inclusive participation and engagement, navigating public hearings and meetings, and submitting effective comments. The dual purpose of this type of training is to support an understanding of the NEPA process, and to foster transparency and agency accountability when NEPA processes fall short of best practices. Training to external entities should support engagement best practices and increase understanding and accountability to NEPA processes that are compliant with nondiscrimination obligations under Civil Rights laws. Training should cover techniques for conducting inclusive public meetings and incorporating community perspectives into the analysis process and reports. NEPA reviewers and trainers should promote standards on the incorporation of community feedback into NEPA documents and technical reports.

E.2.3. Include information on legal rights and remedies available to communities in the NEPA process. Training should inform community members that NEPA lacks a legal mandate to change any project plans, instead it merely requires that the planner consider community feedback, which has not been adequate to meet community needs. Communities should be informed of their rights to appeal inadequate NEPA processes, ways to pursue remedies for environmental injustices and harms, and avenues for legal advocacy (such as contacting state bar associations or pro bono legal clinics at law schools) to protect their interests. Training to external entities would promote understanding about these rights and elevate accountability to the public.

- E.2.4. Develop a publicly available database of complaints, lawsuits, and appeals filed by community members or community-based organizations against any regulated entity during a NEPA review process. This information can then be considered by EPA when the regulated entity applies for permits.
- E.2.5. Provide guidance on environmental, health, and demographic data and analysis. Include training on reviewing community information presented in NEPA technical analyses and reports, and on community-based research and use of publicly available tools (e.g., EJSCREEN, CEJST) and local knowledge, consistent with the recommendations in this document.
- E.2.6. Identify resources and funding opportunities to support environmental justice in the NEPA process. Training should provide information about grants, programs, and partnerships that could provide financial and technical support.
- E.2.7. Include in-person training to establish an anti-racist community of practice which includes peer feedback. (See Appendix A for training resources from non-governmental organizations).

**3. How would NEJAC suggest EPA determine the effectiveness of training agencies and communities to help other federal agencies ensure potential environmental and health burdens on a community with EJ concerns are fully analyzed and addressed?**

Like determining the effectiveness of internal NEPA training, NEJAC recommends a parallel external assessment process to:

- E.3.1. Conduct assessments and audits of NEPA processes and reviews across states where NEPA training and support was provided.
- E.3.2. Conduct external evaluations and collect community feedback from community members or affected populations, including environmental justice organizations, community representatives, and impacted communities, to gauge the perceived effectiveness of NEPA reviews and analyses.
- E.3.3. Hire independent external reviewers to audit NEPA reviews. These reviewers would evaluate the consistency and depth of the environmental justice analysis and conclusions.
- E.3.4. Create cross-agency collaboration that supports peer reviews and collaboration among NEPA reviewers to share best practices, lessons learned, and emerging concerns.



## Concluding Comments

Additional steps will be needed to foster the consideration of EJ concerns in NEPA review, and to support staff engaging in this work. Staff who have taken EJ concerns seriously in NEPA review processes have often worked alone in these efforts and faced pushback from their managers and other colleagues. This is part of a documented broader pattern of resistance to EJ reforms within EPA and other environmental regulatory agencies, where staff and managers alike push back on EJ reforms – including the meaningful consideration of EJ issues within NEPA review – as too time-consuming, potentially unsupported by regulatory authority, too difficult to analyze, and/or inconsistent with what good regulatory practice requires. This pushback continues even under leadership supportive of EJ reforms to regulatory practice, undermines the ability of staff to continue their EJ work within the agency, and contributes to staff burnout.<sup>5</sup>

To support the agency's goal of more meaningfully considering EJ within NEPA review processes, agency management and leadership must address and rectify these internal dynamics. Some ways they can help do so with specific regard to EJ in NEPA review processes are: integrating the meaningful consideration of EJ into all NEPA reviewers' job descriptions' holding all such staff accountable for doing so during staff meetings and performance reviews; conducting internal audits to evaluate how, and how well, NEPA reviews consider EJ issues and track progress on this over time; showcasing and rewarding exemplary reviews; creating affinity groups that stretch across headquarters, regions, other federal agencies, and state and other partner agencies to foster learning and sharing among staff who engage in NEPA review processes; and identifying and addressing workflow processes that undermine the meaningful consideration of EJ concerns in NEPA reviews.<sup>6</sup>

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<sup>5</sup> Citation for reference: Harrison, Jill Lindsey. 2019. *From the Inside Out: The Fight for Environmental Justice within Government Agencies*. Cambridge MA: MIT Press.

<sup>6</sup> See previous footnote.

## Appendix A

A proper anti-racist training should be at least 10 hours, or 1.5 days long. Training content examples include:

- History of race in the United States.
- Implicit bias.
- History of economic disenfranchisement institutionally created along color lines by government actors and businesses (e.g., slavery, Jim Crow laws, redlining).
- History of Environmental Justice in the United States (e.g., the Gulf Coast, Puerto Rico, Cancer Alley).
- Concepts of cumulative impacts, disproportionate impacts, and connection to human health.
- Teach culture-sharing ice breakers. Participants should be encouraged to share their favorite foods, art, music, etc. in ice breaker exercises to normalize the sharing of differences. Make it clear that diversity is celebrated.
- Make justice, equity, diversity and inclusion part of a manager's evaluation ([sample](#)).
  - Establish metrics of hiring.
  - Expand processes of recruitment to break the cycle of nepotism.
  - Encourage whistleblower policies for discriminatory practices.

Organizations should be asked to rate their own institution's level of racism by reviewing these two charts:

- [Institutional Racism: Levels in an Institution.](#)
- [Continuum on Becoming an Anti-Racist Multicultural Organization.](#)

Ask participants about what they could do within their organizations to help move along the continuum of anti-racist work. First steps may include writing an equity statement as an organization to publish on the organization's website and forming a Justice, Diversity, Equity & Inclusion (JEDI) working group.

Resources from the NGO community:

- [Resources spreadsheet](#) from Green Leadership Trust: The Green Leadership Trust has also created a "[Best Practices Library](#)" that contains model documents from NGOs. These documents reflect the current status of diversity and inclusion work throughout the sectors.
- [Glossary](#) on vocabulary we are using, from Racial Equity Tools.
- [Equity filter](#) from the Stop the Money Pipeline Coalition.
- [Other JEDI resources](#) from Stop the Money Pipeline Coalition.

Other ways to promote anti-racism at an organizational level:

- Draft and adopt an equity statement. See a sample non-profit equity statement [here](#).
- Set a target % of staff of color to hire as a target for the next strategic plan.
- Host a JEDI training for the executive decision makers to drive home the connection between infrastructure, environment, and justice.
- Form a Justice, Equity, Diversity & Inclusion (JEDI) team that is embedded into the organization's staff meetings and work groups.
- Host a strategic planning session to embed JEDI.
- Host a conversation about JEDI work at the next general meeting. Here are some [aspirational metrics](#).

- Host a discussion: “What are concrete steps we can take to let BIPOC staff lead where it counts?”
- Host self-care/somatic care retreat. For a good primer on the nexus between the antiracism work and the need for inner resilience and physical movement to release racial trauma held in our body tissues, there is a book called My Grandmother’s Hands.