

EPA Region 5 Regional Implementation Plan to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities

Introduction

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

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

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

Priority Permits for Enhanced Public Participation

Permitting programs will screen all applications for federally-issued permits, and will prioritize actions to enhance public participation in permitting projects where EJ concerns are identified. Specific categories of applications for new permits and permit renewals that Region 5 will screen for EJ concerns include:

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

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

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

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

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

Region 5 will also screen permit applications where:

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

EJ Screening and Review of Permit Applications

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

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

the two primary demographic factors, to provide a measure of how much each block group contributes to disparity between demographic groups nationwide.

Region 5 will use EJSCREEN and other readily available sources of information, including known community concerns, to perform initial EJ screening of permits. As a pre-decisional tool, EJSCREEN will be used to highlight candidates for additional review where enhanced outreach may be warranted. Additional review includes consideration of additional available information and data unique to an area that may capture environmental and demographic factors more holistically. EJSCREEN is not designed to conclusively determine whether or not disproportionately high and adverse impacts in fact exist.

In cases where EJSCREEN is not appropriate for use in screening because the relevant data are not available for the area, Region 5 will complete a similar screening by reviewing available demographic and environmental data. EPA expects that in most circumstances EJSCREEN will be the appropriate tool for initial screening.

Enhanced outreach activities

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

- The Region will increase internal oversight for the EPA-issued permit, including coordination among affected offices throughout the permitting process if the facility is applying for more than one permit.
- The Region will encourage enhanced outreach by the applicant (for new permits) or permittee (for permit renewals). This may include encouraging the applicant or permittee to:
 - provide EPA with a plain-language description of its proposed project that can be shared with community members; and
 - apply EPA guidance on environmental justice, such as “Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line.” (See footnote 3.)
- The Region will share information about the permitting action and the proposed permit with community members, through means such as:
 - holding informational meetings;
 - ensuring that public notices reach the impacted community and are written in plain language;
 - ensuring that public documents are accessible to the community;

- using communication techniques the community values (such as direct mailings, articles in local newspapers, emails to list serves, etc.);
 - extending the public comment period, when appropriate; and
 - responding to community questions and concerns, especially those of a technical nature and those about environmental justice.
- The Region will plan for one or more public meetings, and will:
 - seek to hold public meetings (including meetings required to meet regulatory requirements, such as hearings) at times and places in the community best designed to afford the public a meaningful chance to attend; and
 - offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents) when appropriate and allowed by our budget, in accordance with the Region's Limited English Proficiency Plan.
 - The Region will ensure appropriate follow-up with community stakeholders after the permit has been issued, by providing a summary of EPA's response to comments to the community and letting community members know where they can find the full response to comments.
 - The Region will coordinate with state, local, and/or tribal authorities in appropriate circumstances. This plan does not change applicability of the tribal consultation policy in any way.

Roles and Responsibilities of Regional Programs

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

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

Region 5's Environmental Justice program, located in the Office of Enforcement and Compliance Assurance (OECA), will: provide training on how to conduct EJ screening, as needed; assist permitting programs as needed by facilitating contact with community and environmental justice groups; provide support as needed to respond to community EJ concerns; and review plan implementation, including identifying any needed updates to the plan.

Progress Review

Region 5 will periodically review progress and share lessons learned with other regions and headquarters in carrying out the enhanced outreach provided in this plan.

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