

EXECUTIVE SUMMARY Detroit, Michigan, May 29-31, 1996

INTRODUCTION

This executive summary provides highlights of the seventh meeting of the National Environmental Justice Advisory Council (NEJAC), held on May 29 through 31, 1996 in Detroit, Michigan. The Executive Council of NEJAC met on portions of May 29, 30, and 31, 1996. Each of the six NEJAC subcommittees met for a full day on May 29, 1996 and continued deliberations through the morning of May 30, 1996. Twenty-two members of the Executive Council, along with an additional 25 individuals, participated in the deliberations of NEJAC's six subcommittees. Approximately 150 persons attended the meetings. The NEJAC hosted public comment periods on May 29 and 30, 1996.

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. Richard Moore serves as the chair of the Executive Council. Ms. Clarice Gaylord, EPA Office of Environmental Justice (OEJ), serves as the Designated Federal Official (DFO) for the council. Exhibit ES-1 lists the persons elected to chair the six NEJAC subcommittees and the EPA staff appointed to serve as DFO for each subcommittee.

To date, NEJAC has held seven meetings. OEJ maintains public transcripts and summary reports of the proceedings of the meetings. Those documents are available to the public upon request.

OVERVIEW

Ms. Gaylord opened the meeting for Mr. Moore by welcoming participants and reading a written statement. Mr. Moore's statement indicated that he had attended separate meetings with EPA Administrator Carol Browner and Mr. Steve Herman, Deputy Assistant Administrator (AA) of EPA's Office of Enforcement and Compliance Assurance (OECA), to discuss the possibility of establishing a work group to address environmental issues related to Puerto Rico, implementation of Title VI of the Civil Rights Act of 1964, and interaction of the NEJAC with the Interagency Work Group on Environmental Justice (IWG).

Exhibit ES-1

NEJAC Chairs and DFOs

Executive Council:

Mr. Richard Moore, **Chair**
Ms. Clarice Gaylord, **DFO**

Enforcement Subcommittee:

Ms. Deeohn Ferris, **Chair**
Ms. Sherry Milan, **DFO**

Health and Research Subcommittee:

Mr. Robert Bullard, **Chair**
Mr. Lawrence Martin, **DFO**

Indigenous Peoples Subcommittee:

Mr. Walter Bresette, **Chair**
Ms. Elizabeth Bell, **DFO**

International Subcommittee:

Mr. Baldemar Velasquez, **Chair**
Ms. Lorraine Frigerio, **DFO**

Public Participation and Accountability Subcommittee:

Ms. Peggy Saika, **Chair**
Mr. Robert Knox, **DFO**

Waste and Facility Siting Subcommittee:

Mr. Charles Lee, **Chair**
Mr. Kent Benjamin, **DFO**

Mr. Herman updated the members of the NEJAC on the integration of OEJ into the organizational structure of OECA. Stating that he believes the transition is working well, Mr. Herman said that the presence of OEJ is bringing about the integration of environmental justice issues into OECA's policies, programs, and activities. Mr. Herman also provided an update on the status of EPA's budget and the status of international environmental justice activities at the agency.

Common Themes

During the day and one-half meeting, the subcommittees discussed a wide-range of issues related to environmental justice. Specific issues raised include improving the coordination among the NEJAC subcommittees, addressing issues related to multicultural perspectives and environmental justice concerns related to the process of awarding grants, and the trend toward delegation of regulatory authority to the states.

Members of the six subcommittees continued to call for improved coordination and communication among the six NEJAC subcommittees. In response to concerns raised at the December 1995 meeting of the NEJAC, subcommittees participated in joint discussions of common issues. Issues addressed in joint presentations or discussed jointly by subcommittees include:

- Native American issues discussed by the Indigenous Peoples and Waste and Facility Siting subcommittees
- Issues related to enforcement of worker protection standards, reviewed by the Enforcement and International subcommittees
- The design and scope of an ongoing national study of environmental justice issues conducted by the National Academy of Sciences and the Institute of Medicine (IOM), addressed collaboratively by the Health and Research and the Waste and Facility Siting subcommittees.

Renewed calls for improved coordination among subcommittees focused on integrating considerations of public participation into the activities of each of the subcommittees, as well as incorporating consideration of issues related to indigenous peoples into the deliberations of the subcommittees. Members of the Public Participation and Accountability Subcommittee plan to examine how best to strengthen the effectiveness of the subcommittee and to ensure the participation of community organizations in the public comment periods sponsored by the NEJAC. The Indigenous Peoples Subcommittee agreed to present to the NEJAC its concerns that environmental justice issues related to indigenous peoples are not communicated to, or discussed in consultation with this subcommittee.

Members of the NEJAC expressed concern about issues related to incorporating multicultural perspectives and concerns about environmental justice into EPA's various grants programs. In general, members expressed frustration at the process used in selecting grant recipients, citing an apparent lack of sensitivity on the part of selection panels. Noting that the processes fail to recognize that the experts on the community are the very people who live and work in the community,

many members expressed concern about the failure of many grant programs to formulate strategies for working with multicultural audiences.

Discussions about the effect on enforcement standards of the delegation of regulatory authority to individual states revealed concern among members that, as states take increasing responsibility for enforcing certain regulatory programs, EPA could establish a less commanding control standard.

Recent public forums sponsored by EPA to provide opportunities for members of the public to comment on issues ranging from Brownfields redevelopment and relocation of communities to worker protection rules prompted calls for additional forums. Forums under consideration include regional enforcement roundtable meetings and a national forum on concerns related to health and research.

SUMMARIES OF THE SUBCOMMITTEE MEETINGS

Summarized below are the discussions conducted during the meetings of the six subcommittees of the NEJAC.

Enforcement Subcommittee

The NEJAC Enforcement Subcommittee discussed the activities of the four work groups of the subcommittee and reviewed the action items formulated during its meeting in December 1995 and the planning of enforcement roundtable meetings. The subcommittee also heard numerous presentations during its two-day meeting. Presentations included reports on public dialogues on worker protection, enforcement targeting, and issuance of guidance related to Superfund reform, as well as an update on enforcement activities under Title VI of the Civil Rights Act of 1964.

A summary of the status of the work groups follows:

- The Worker Protection Work Group, has been established to review and provide recommendations to EPA on its activities related to enforcement of existing regulations.

- The Open Market Trading of Air Emissions Credits Work Group will review the proposed guidance on air emissions credits that EPA may issue in November or December 1996. The work group also will research studies that have been conducted of the trading of air emissions credits to evaluate the shortcomings of the trading programs.
- The Work Group on Permitting (formerly the Work Group on Agency Integration, Permitting, and the National Environmental Policy Act [NEPA] Process) conducted preliminary analysis of the integration of environmental justice into EPA's permitting process. In the future the work group will analyze NEPA to identify opportunities for the inclusion of environmental justice into the NEPA process and meet with staff of EPA's Office of General Counsel and the U.S. Department of Justice concerning issues related to integrating environmental justice into the permitting process.
- Before it is disbanded at this meeting, the Work Group on the Policy on Supplemental Environmental Projects (SEP) will issue a memorandum discussing EPA's authority related to SEPs.

The subcommittee also established a task force committed to planning roundtable discussions of enforcement agreements between EPA and the states and between EPA Headquarters and the EPA regional offices. Members of the subcommittee agreed to work with members of the Public Participation and Accountability Subcommittee to ensure that the Model Plan for Public Participation is incorporated into the planning process for the roundtable discussions.

The subcommittee's discussion of environmental justice issues related to enforcement also included the roles of EPA and states in enforcement and issues related to polychlorinated biphenyls (PCB). The subcommittee was reassured by EPA that Administrator Browner has made a commitment to ensure that public participation plays a central role in the performance partnership agreements. The subcommittee also discussed the recently issued rule concerning the importation of PCB waste and PCB-contaminated items from Canada and

Mexico, and from other countries with which the United States has signed bilateral agreements. The subcommittee plans to review in more detail at its December 1996 meeting maps generated by the LandView II mapping software which identify all the PCB facilities in the country.

Health and Research Subcommittee

Much of the discussion of the NEJAC Health and Research Subcommittee centered on identifying the future direction of the subcommittee's activities. Members of the subcommittee generally agreed to expand their activities beyond reviewing EPA documents to pursue more "action-oriented" initiatives. The subcommittee identified the following opportunities: organization of a national forum on concerns related to health and research; interaction with the IOM in an effort to participate in the design of that agency's ongoing national environmental justice study; and provision of comments to the IWG.

Members of the subcommittee identified specific goals to be accomplished by an EPA-sponsored forum on health and research. The subcommittee agreed that the forum should address research methods. Possible key agenda items include assessing cumulative and multiple risks; assessing risks to small populations; community-directed research; tools for information and integration; and cross-cutting themes, such as how research is initiated. The subcommittee drafted a description of the proposed forum as a resolution that was then adopted by the NEJAC.

The Health and Research Subcommittee also discussed working in partnership with the Waste and Facility Siting Subcommittee to provide comment on the design and scope of the national study on environmental justice conducted by the National Academy of Sciences and IOM.

Members of the subcommittee also drafted a resolution outlining various comments to be presented to the IWG at its June meeting, which some members of the NEJAC will attend. The subcommittee requested that the NEJAC recommend that the IWG consider a national priority the health effects of cumulative exposure to toxics and synergistic effects of toxics. Among the conditions of widespread concern are asthma, learning impairment, behavioral abnormalities and other neurological disorders, reproductive disorders, cancer

clusters, birth defects and neonatal mortality, low birth weight, skin conditions, and kidney problems.

The subcommittee also heard presentations on the potential weakening of standards governing lead testing and cleanup and a report on the Mickey Leland National Urban Air Toxics Research Center. In addition, the Health and Research Subcommittee forwarded several other resolutions to the NEJAC related to childhood lead poisoning and mercury poisoning associated with domestic use in cultural practices.

Indigenous Peoples Subcommittee

The deliberations of the Indigenous Peoples Subcommittee focused on the activities of the subcommittee, environmental justice issues related to indigenous peoples, and a number of presentations. The Indigenous Peoples Subcommittee also conducted a joint session with the Waste and Facility Siting Subcommittee to hear a presentation from EPA's Office of Solid Waste and Emergency Response (OSWER) on tribal operations and issues related to solid and hazardous waste management by tribal authorities.

The members of the subcommittee reviewed selected action items that had been identified during the December 1995 meeting of the subcommittee. After its discussions, the Indigenous Peoples Subcommittee forwarded a number of the action items to the NEJAC as resolutions, specifically requesting written reports from various EPA regional offices related to cases involving the California Basket Weavers Association, Big Mountain, Fort Belknap, St. Regis Mohawk, Torres Martinez, and the Navajo nation.

Concerns were raised anew about coordination of efforts with the other subcommittees of the NEJAC. The members stated that environmental justice issues related to indigenous peoples are not communicated routinely to the subcommittee. The subcommittee also agreed that the members of the NEJAC should be educated about the special status of Native Americans, noting that Native Americans are not only people of color but also members of sovereign nations. The subcommittee agreed to request a time at the December 1996 meeting to discuss the issue with the NEJAC.

In addition to improving communication within the NEJAC, the Indigenous Peoples Subcommittee

again recommended a joint meeting of the NEJAC and EPA's Tribal Operations Committee (TOC). The purpose of the meeting would be to discuss the relationship between the two groups, identify areas of mutual concern, and avoid duplication of effort.

The subcommittee's discussion of Environmental justice issues and concerns related to indigenous peoples included funding issues related to building tribal capacity, tribes' accessibility to information, and trust responsibility and environmental protection in ceded territory. After discussions of issues, the subcommittee drafted resolutions on building tribal capacity and involving tribal governments when appropriate in the siting of waste facilities, as well as a resolution calling on EPA and other federal agencies to honor their trust responsibilities and comply with Executive Order 12898. Additional issues included site-specific environmental justice cases related to the Yankton Sioux Indian Tribe and the Copper Range Company, White Pine, Michigan. The subcommittee also requested that NEJAC recommend that EPA review its mediation and negotiation policy with regard to tribes.

The subcommittee heard updates on several conferences at which issues related to indigenous peoples were discussed: the National Tribal Environmental Management Conference, World Council of Churches Conference, a meeting of the EPA TOC, and the Indigenous Environmental Network Gathering.

International Subcommittee

Much of the meeting of the International Subcommittee was devoted to presentations and updates on various conferences related to international environmental justice issues. Discussions focused on updates on the Bolivia Hemispheric Conference on Sustainable Development; the Border XXI Program; public participation and accountability in the Border XXI Program; the President's Council on Sustainable Development; the Habitat II Conference; and the activities of the Gore-Mbecki Commission. During their discussions of these topics, the members of the International Subcommittee expressed common concerns and themes.

The members of the International Subcommittee strongly urged EPA to assume a leadership role in ensuring that environmental justice is integrated

into the international policies of the United States. The United States has a historic opportunity to ensure that environmental justice becomes a priority throughout the world, they noted.

Members of the subcommittee expressed concern about the lack of community involvement in such EPA activities as negotiating environmental justice policy and drafting policy language related to environmental justice in the international arena. Concern was expressed specifically about efforts to draft the environmental justice platform for the Habitat II Conference scheduled for June 1996 in Istanbul, Turkey.

In response to a perceived lack of community involvement in international activities, the subcommittee agreed to draft a letter for Mr. Moore's signature to Administrator Browner, expressing the NEJAC's concern about the apparent lack of public participation and accountability in the activities of the Border Environmental Cooperation Commission (BECC).

Subcommittee members also expressed concern about the lack of involvement of the International Subcommittee in the international activities of EPA. Subcommittee members stated that EPA's Office of International Activities (OIA) should have been more aggressive in involving the International Subcommittee in several recent key international activities. Members of the subcommittee stated they hope that in the future OIA will be more sensitive to the need to involve the subcommittee to assure incorporation of environmental justice concerns in the development and implementation of its policies and activities.

Members began drafting a mission statement for the subcommittee. The subcommittee agreed that its mission statement should focus on trade and international policy. Members also stated the belief that the membership of the IWG should be expanded to include representatives of such federal agencies as the U.S. Department of State and the Office of United States Trade Representatives.

Public Participation and Accountability Subcommittee

The deliberations of the Public Participation and Accountability Subcommittee focused on improving the effectiveness of the subcommittee; improving the public participation process; and incorpo-

rating environmental justice issues related to public participation into the processes of both EPA and the NEJAC. The subcommittee also discussed various environmental justice issues related to public participation, such as the Resource Conservation and Recovery Act final rule; review of the draft White House Council on Environmental Quality guidance for the NEPA process; overview of the public participation efforts in Chile; and review of EPA's grant process.

The activities of the subcommittee included review of action items agreed upon during its December 1995 meeting and discussion of the role of the subcommittee within the NEJAC. Members of the subcommittee discussed the need to strengthen the effectiveness of the subcommittee and to better integrate the activities of its members with those of other subcommittees of the NEJAC. The subcommittee will examine methods of restructuring itself so that two members can be assigned as liaisons to each of the other subcommittees of the NEJAC.

The subcommittee also discussed issues related to improving public participation, such as incorporating final changes in, and methods of distributing and evaluating, the NEJAC model plan for public participation; improving NEJAC's interactions with communities; enlisting the support of EPA on a regional level; integrating public participation in EPA's policy making and decision making; and disseminating information about environmental justice.

The subcommittee agreed to revise the model plan. The members of the subcommittee also discussed the importance of determining how the plan will be distributed. In addition, the subcommittee also discussed the need to periodically evaluate the model plan for public participation and the public participation process itself. The members agreed to develop methods to evaluate both the model plan and the public participation process.

The members of the subcommittee also discussed interaction of the NEJAC with communities. Efforts to bring the NEJAC to communities through activities like the bus tour of Detroit conducted on May 28, 1996 were identified as alternatives to satellite downlinks. The members agreed that such events help the NEJAC become familiar with issues that are important to communities. Members of the subcommittee also agreed that the

subcommittee should play a more assertive role in determining where the NEJAC should meet and how its members should interact with the communities in which it holds its meetings.

In addition to involving the local community in the development of NEJAC meetings, the subcommittee identified a need to enlist on a regional basis more support for the meetings and activities of the NEJAC. The members of the subcommittee suggested that, for each meeting of the NEJAC, the appropriate EPA regional administrator might welcome the NEJAC members to the region. Such a step could help build a partnership that could work to institutionalize a process to involve people at the regional level, the members agreed.

The members of the subcommittee also stressed that public participation should be integrated into EPA's programs and activities at both the regional and national levels. The role of the subcommittee, they agreed, should be to assist the efforts of communities to hold entities like EPA accountable for involving the public in their decision-making processes. Members of the subcommittee stated that it is important to link public participation tools, such as the model plan for public participation, with programs within EPA that will have the most strategic effect on decision making.

Waste and Facility Siting Subcommittee

The members of the Waste and Facility Siting Subcommittee reviewed their action items and received an update on the report on Public Dialogues on Urban Revitalization and Brownfields. Subcommittee members voted to adopt the report and to recommend that the NEJAC adopt the report. In addition, the subcommittee adopted a motion related to distribution of the document.

The members of the subcommittee discussed a proposed resolution emphasizing the importance that EPA and the U.S. Department of Transportation (DOT) coordinate their efforts to address overlapping issues related to transportation, regional land use, and urban revitalization and the Brownfields Initiative. Members emphasized the importance of including discussions about redevelopment under the Brownfields Initiative and urban revitalization in a series of regional workshops coordinated with DOT. If the Brownfields program is to succeed, they agreed, it must go beyond environmental issues.

Members of the subcommittee voiced much concern about the national study on environmental justice being conducted by the National Academy of Sciences and IOM. Many members of the subcommittee agreed that the NEJAC should be concerned about this study because EPA is one of the agencies funding the study. The subcommittee passed a resolution recommending that NEJAC request that EPA urge the adoption of a comprehensive view of environmental justice and that the study consider the interests of low-income communities, access to health care, issues related to education, and similar issues.

The subcommittee heard presentations about the status of OSWER environmental justice implementation activities; the status of OSWER's activities related to the Brownfields program; the status of OSWER's siting surveys, policies, and activities; information about waste minimization and pollution prevention related to Brownfields; the report of the National Institute of Environmental Health and Sciences on the minority worker training program; the status of EPA's military munitions rule; and tribal and Native American issues, as well as an update on the relocation roundtable meeting.

The dialogue between the Waste and Facility Siting Subcommittee and the Indigenous Peoples Subcommittee about environmental justice issues related to Native Americans focused on continuing concern about integrating issues related to indigenous peoples into the deliberations of other subcommittees. The joint session was a first step in educating members of other subcommittees about the importance of the sovereignty of Native American nations, as well as cultural characteristics of indigenous peoples. After the joint session between the two subcommittees follow-up activities were planned, including conducting of joint conference calls and formation of an Indigenous Peoples Work Group to address many issues that affect indigenous people, such as regulatory loopholes and mining wastes, building the capacity of communities to participate effectively, employment and worker training, and coordination with federal facilities.