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Government
Advisory
Committee**



MAR 18 2015

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The Honorable Gina McCarthy
Administrator

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

On behalf of the Local Government Advisory Committee, we are writing to provide our comments on the agency's application of an Environmental Justice Analysis carried out on the U.S. EPA Definition of Solid Waste (DSW) Rule. On December 10, 2014, the DSW final revisions were made to the Definition of Solid Waste Rule, closing the regulatory gaps of the 2008 DSW rule, which could negatively pose environmental and public health impacts especially in minority and low-income communities. While the LGAC understands the agency is not receiving comments on the DSW final rule, the LGAC is commenting on the efficacy and value of the Environmental Justice Analysis as applied in development of the DSW Rule.

The LGAC commends the EPA for the extensive public outreach conducted through this analysis, and in particular notes that a thorough Environmental Justice Analysis was applied to the final rule-making on the DSW rule in a very transparent manner and made available to the public. The LGAC believes this type of EJ Analysis on other EPA proposed rules has a great value to local governments by evaluating, assessing and ultimately closing the disproportionate gap to EJ communities, and if expanded, provide for adequate and transparent assessment of the disproportionate relative costs to rural and small communities.

Background

The EPA's Environmental Justice Analysis identified significant regulatory gaps in the 2008 DSW rule, which potentially posed negative impact to EJ communities adjacent to recycling facilities-which are typically minority and low income communities. In particular, EPA was able to identify certain threats such as the mismanagement by

third-party hazardous materials which could pose significant harm such as risk of fires, explosions, accidents and releases of hazardous materials to the environment. Noting that the EJ

Analysis identified disproportionate impacts to EJ communities, the DSW final revisions provided specific safeguards to address these impacts and furthermore provide strong protections against any potential harm caused by mismanagement of hazardous materials intended for recycling and opportunities for public participation in environmental decision-making at DSW recycling facilities.

LGAC Findings and Recommendations:

Finding: The LGAC finds that the Environmental Justice Analysis adds a thorough analysis of disproportional impacts to EJ communities and carefully considers these impacts in the rule-making process.

Finding: Additionally, the LGAC believes that an EJ Analysis allows for targeted application of rules to address specific environmental and human health concerns of EJ communities with also the opportunity to address specific concerns such as cumulative risk factors to EJ communities.

Recommendation: The LGAC recommends that the EPA consider and use an EJ Analysis on proposed future rule-makings.

Recommendation: The LGAC strongly recommends that this EJ Analysis be conducted prior to a rule-making process that also includes an extensive public outreach component to fully engage and focus on these disproportionate environmental, socioeconomic and other impacts to disadvantaged, minority and rural/small communities.

Recommendation: As part of this EJ Analysis, a robust analysis should also be expanded to include the relative scale of costs (per capita) to small and disadvantaged and rural communities to enact these rules and guidelines.

Recommendation: The results of EPA's EJ Analysis should be made available for the public to review and provide comments, much as the DSW rule was carried out.

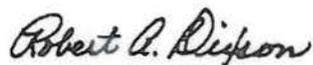
Conclusion

The LGAC believes that the EJ Analysis used in the DSW rule represents a major environmental justice milestone by directly addressing community impacts that disproportionately affect minority and low-income populations, such as hazards and environmental contamination. The impact of such an analysis gives the agency direction to provide a strong level of protection for environmental and public health protection for EJ communities. In the DSW rule, the EJ Analysis specifically addressed the mismanagement of hazardous materials intended for recycling, while allowing for legitimate needed recycling activities to continue.

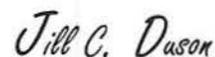
An EJ Analysis in EPA's rule-making process has potential to reveal numerous issues of importance to local governments such as financial liabilities, financial assurances, critical information for local emergency response officials, which provides local fire departments and hospitals with critical information to enable them to tailor their preparations and response, thereby reducing risk to not only EJ communities-but all of our communities. The LGAC commends the EPA to advance a regulatory framework to reduce harmful impacts to EJ communities. The LGAC would like to work with the EPA to expand this EJ Analysis on future rule-makings to examine the burden of cost to small, rural and disadvantaged local governments.

Thank you for the opportunity to provide comment. Local governments are on the frontline of environmental protection. As such, we in local governments must everyday make decisions that balance the public health and environment concerns while fostering an environment for businesses and commercial operations to grow-in a safe and equitable manner. And as local decision-makers, we value tools that aid us in our work to make our communities safe and healthy-and we believe this EJ Analysis is a good step in that direction.

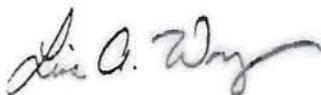
Sincerely,



Mayor Bob Dixon
Chair



Councilor Jill Duson
Chairwoman, Cleaning Up Our
Communities Workgroup



Mayor Lisa Wong
Chairwoman, Environmental Justice (EJ) Workgroup