

IMPLEMENTING THE EXECUTIVE ORDER OF ENVIRONMENTAL
JUSTICE AT THE U.S. DEPARTMENT OF ENERGY

G. Shields
E. Liebow
D. Lach

R. Holmes^(a)
M. Pearson^(b)
B. Crawford^(b)

June 1995

Presented at the
National Association of Environmental Professionals
20th Annual Conference & Exposition
June 10-13, 1995
Washington, D. C.

Prepared for
the U.S. Department of Energy
under Contract DE-AC06-76RLO 1830

Pacific Northwest Laboratory
Richland, Washington 99352

(a) Clark-Atlanta University
(b) U.S. Department of Energy

DISCLAIMER

This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.

MASTER

DISCLAIMER

Portions of this document may be illegible in electronic image products. Images are produced from the best available original document.

IMPLEMENTING THE EXECUTIVE ORDER ON ENVIRONMENTAL JUSTICE AT THE U.S.
DEPARTMENT OF ENERGY

Glenna Shields, Battelle/Pacific Northwest Laboratories
Edward Liebow, Battelle/Pacific Northwest Laboratories
Denise Lach, Battelle/Pacific Northwest Laboratories
Robert Holmes, Clark-Atlanta University
Melanie Pearson, U.S. Department of Energy
Barbara Grimm Crawford, U.S. Department of Energy

Introduction

"Environmental justice" has grown out of a grassroots movement aimed at forging links between environmental decision-making, civil rights, and social justice. Public interest in environmental justice translates into the application of community organizing, coalition-building, and legal strategies developed in the civil rights movement to address a disproportionate burden of risk and exposure to pollution borne by low-income and minority communities.

Currently, public interest activities in the US are most concerned with siting polluting facilities in low-income and minority communities, with the slow pace of contamination clean-up in these communities, and with the way in which environmental planning decisions are made. The federal response to these activities has included several pieces of proposed Congressional legislation (none of which have been enacted to date), and an Executive Order issued in February, 1994 (Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations*), directing each agency of the executive branch to determine whether administrative changes are needed to promote environmental justice goals.

This paper reports on efforts undertaken to date by the US Department of Energy (DOE) to implement the Executive Order. While DOE faces relatively few decisions about siting new facilities outside its current installations, in recent years the Department has begun a massive environmental restoration and waste management challenge. In addition the Department is responsible for carrying out the nation's energy policy, which allocates economic and environmental benefits and burdens.

In the near term, the main issue for DOE appears to be one of balancing locally-borne burdens, such as environmental risks or possible socioeconomic

disruption, with the regional and national interests DOE aims to promote and protect. Coordination with other federal agencies on equity issues is essential. In addition, DOE faces other energy resource development challenges (e.g., fossil fuels, renewable resources, and energy efficiency initiatives) where environmental equity considerations will be key in the distribution of development burdens and benefits.

The Executive Order Directives

Executive Order 12898 required each federal agency to examine the impacts of its activities in order to identify where adverse environmental and human health impacts fell disproportionately on minority or low-income populations. Agencies were further directed to ensure that the benefits of their activities were proportionately distributed to these populations. A cover memo to the heads of federal agencies underscored related provisions of several existing statutes such as Title VI of the Civil Rights Act of 1964, the National Environmental Policy Act, the Clean Air Act and statutes ensuring access to public information.

The Order itself contains six sections. The first five establish an administrative framework and milestones for implementation; detail the agencies' responsibility for federal programs; require developing inclusive designs in environment and health related studies and tracking subsistence consumption of fish and wildlife; and set requirements for public participation. The last section contains responsibilities and defines the relationship to other Executive Orders and to relevant existing statutes.

The EO established an ambitious set of milestones for its implementation. These mandated the establishment of an interagency infrastructure to guide and over see implementation activities and set the schedule for the development of the individual agency environmental justice strategies. The first milestone required the establishment of an Interagency Working Group (IWG) comprised of the heads of major federal agencies and headed by EPA. The charter of the IWG was to guide the agencies and coordinate and facilitate the development of the strategies and the conduct of

research. Figure 1 illustrates the structure of the IWG. A National Environmental Justice Advisory Committee (NEJAC) composed of leaders in the environmental justice movement representing both the grassroots organizations and academia was established to guide and review the work of the IWG. The business of the Working Group is conducted by eight Task Forces. These are research and health, outreach, data, enforcement and compliance, implementation, Native Americans, definitions and standards, and interagency projects. The Department of Energy co-chairs the outreach task force and has members on the data, definitions and standards, and Native Americans Task Forces.

Secretary O'Leary initiated the Departmental response to the Executive Order by designating Corlis Moody, Director of the Office of Economic Impact and Diversity, to lead the implementation effort. Day to day management of the effort is conducted by a departmental working group led by Georgia Johnson, Office of Economic Impact and Diversity; Barbara Grimm Crawford, Office of Environment, Safety, and Health; Loveliss Johnson, III, Office of Environmental Management; and Melanie Pearson, Office of Environment, Safety, and Health. Each of the programmatic offices within DOE is represented by a working group member whose role is to collect and transmit information to and from the working group during both the strategy development process and strategy implementation processes.

The activities of the working group and support of the Secretary have established the Department as a leader among the agencies in responding to the Executive Order. It has been one of the few agencies to consistently meet the milestones of the Executive Order. The first milestone for the Working Group was to define by June 11, 1994, a process for developing the strategy. The process that was identified was a four step approach:

- o establish a "decisionmaking infrastructure;"
- o identify programs where there is a potential need for data collection and research on disproportionate distribution of adverse effects;
- o identify populations potentially exposed to disproportionate

- adverse health and environmental impacts; and
- o establish process/mechanism for stakeholder participation in strategy development
- o establish guidelines to enable field to conduct assessments;
- o develop priorities for addressing disproportionate and adverse impacts; and
- o improve NEPA process.

An outline of the strategy was due to the Interagency Working Group by August 11, 1994. In developing the outline, a set of five Departmental goals was drafted and each of DOE's programmatic offices identified representative implementing activities for the goals that were relevant to their programs. These draft goals and implementing activities were refined and expanded by the Departmental Working Group as the outline was expanded into a proposed draft strategy, which was delivered to the Interagency Working Group for review by the White House and the NEJAC, and which was distributed to stakeholders in early December, 1994.

The preliminary draft strategy was distributed to stakeholders through the environmental justice and outreach contacts at each of the DOE sites and stakeholder suggestions for improvement of the strategy were and continue to be solicited. Although the strategy was submitted to the IWG on March 24, 1995, the Department will treat its strategy as a "living document," allowing its continued evolution based on stakeholder comment and DOE's improved understanding of the environmental justice issues in the DOE complex. To encourage stakeholder input, the strategy is available through the Office of Minority Impact and Diversity at DOE headquarters and comments may be submitted to Georgia Johnson of that Office. (1000 Independence Avenue S.W., Washington, DC, 20585.)

The Department's strategic goals currently are to:

- Identify and address programs, policies, and activities that may disproportionately and adversely affect the health or environment of minority and low-income populations;
- Ensure compliance with existing environmental and civil rights

- statutes and regulations in all departmental activities;
- Make public participation a fundamental component of all program operations, planning, and decision making;
 - Improve human health and environmental research and data collection to include minority and low-income populations where appropriate and to take into account differential patterns of subsistence consumption of natural resources; and
 - Integrate environmental justice criteria, as appropriate, with activities and processes related to human health and the environment.

It should be pointed out that within the Department, implementation is to be undertaken in a decentralized fashion. In effect, a general directive has been issued from the highest levels of the Department, and responsibility for translating this directive into specific prescriptions for action has been distributed broadly across the organization. In this de-centralized scheme for allocating responsibilities, achieving consistency between organizational subdivisions relies on the departmental working group to maintain a clear sense of how it wants to see the strategy implemented, and negotiate separately with each office the changes that the working group feels are necessary.

While this approach does not reduce the Department's need for long-range centralized planning, it does eliminate the need to build a Department-wide consensus on the nature and extent of organizational changes to be undertaken. Seeking such a consensus among the historically autonomous offices of the Department would be so daunting that the effort almost certainly would not even be started. Better to keep the template for organizational change implicit and modified to suit local circumstances than to deal with the insurmountable resistance that would inevitably accompany explicit prescriptions for change imposed from above.

The decentralized approach is not without drawbacks. For the same reasons that some offices within the Department may need substantial changes, they may be the least accommodating in negotiations with the departmental

working group. Having a more widely accepted course of action to follow can force reluctant offices into line.

In addition, there is little opportunity for "feedback" to offices that have completed their negotiations and arrived at a plan for change that the Office of Economic Diversity and Impact has accepted. If another office has come up with an especially effective plan to achieve environmental justice goals through its programs, it remains uncertain whether other offices that have already started in with other, less ambitious implementation plans can be persuaded to abandon these plans in favor of a more encompassing approach. To counteract this possibility, the Department has committed explicitly to regularly revisiting the implementation of its environmental justice initiatives.

Environmental Justice Initiatives at DOE

Even as the strategy continues to evolve, a number of Department-sponsored activities designed to meet the goals of environmental justice have been initiated. In addition, several efforts not conceived initially as environmental justice initiatives, are supporting DOE goals. Environmental justice initiatives are sponsored by many Offices within the DOE including Environmental Management (EM), Environment, Safety and Health (EH), and Energy Efficiency and Renewable Energy (EE). Current environmental justice efforts include outreach activities, education programs, employment and community development initiatives, and research and analysis projects.

Key among the outreach projects are initiatives to translate information that has been historically inaccessible to low-income and minority populations due to technical content or language barriers. In one of these efforts, DOE has joined with Savannah State College and the Citizen's for Environmental Justice to coordinate educational activities and information dissemination for communities surrounding DOE's Savannah River Site. Savannah State, a historically black college, is assisting in curriculum development, technical assistance, and instruction assistance for local school teachers and community trainers. Citizens for Environmental Justice, a non-profit grass roots

citizen organization, will conduct training sessions for community trainers and assist in holding public information meetings on activities at the Savannah River Site. In addition, they will assist in translating technical information into non-technical language that is more easily understood by the general public.

The Spanish Translation Project is designed to convert major DOE documents into Spanish. Documents currently translated include the Executive Order with its cover memo and the "Student Edition of the Introduction to Environmental Management." Other documents have been identified for translation. The Native Languages Translation project, which is being conducted with the Lac-Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Navajo Nation, the San Il Defonso Pueblo, the Shoshone-Bannock Tribes, and the Tohono O'Odham Tribe, is designed to allow Tribal governments the opportunity to translate DOE documents into their native languages for widespread distribution. A current activity is the translation of the "Student Edition of the Introduction to Environmental Management."

Another outreach project is the "Hispanic Yearbook." The Yearbook contains information on career opportunities, minority business development opportunities, educational opportunities, health information, and Hispanic organizations and publications. Also, the Environmental Management Clearinghouse is currently adding information about environmental justice issues and projects.

DOE is actively developing education projects designed to enhance the environmental capabilities and understanding of minority and low-income populations. DOE has joined with the California Partnership for Environmental and Technology Education (PETE) , Bechtel Corporation, BC2 Environmental, and Community Build to provide financial scholarships and job training to young people in South Central Los Angeles who are interested in working in environmental fields. Particular emphasis is placed on the environmental restoration and waste management fields. Another activity, the Core Environmental Management Project, is designed to increase the capacity of eight Tribal governments to undertake core environmental management skills on

their respective Tribal lands. The Tribal governments will hire additional staff to enhance their ability to review and comment on DOE activities that affect Tribal communities and lands.

In a project designed to provide training in environmental restoration techniques, DOE, the Earth Conservation Corps, and the Columbia River Inter-Tribal Fish Commission are making repairs to critical salmon habitat in the Columbia River Basin of Washington, Oregon, and Idaho. Most of the 72 participants represent the five Native American tribes of the region. The Earth Conservation Corps, a national non-profit organization that works with disadvantaged youth on environmental projects, will implement this project.

Other DOE sponsored environmental justice initiatives are targeting development of community capabilities to manage environmental resources. In one project, several tribes including the Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce, the Shoshone-Bannock, the Yakima Indian Nation, the Navajo Nation, the Seneca Nation of Indians, and the Pueblos of San Il Defonso, Jamez, Cochiti and Santa Clara are participating in a series of pilot projects designed to develop the economic capacity of Tribal governments while maintaining Tribal cultural identity through expanded training, economic opportunity, and program development. The results of each pilot will be shared among Tribal governments throughout the United States. Another project, the Hanford-Tribal Employment Project, is open to all Native American Tribes located in the area surrounding DOE's Hanford, Washington site or who have an interest there. It is designed to fund the Hanford Native American Employment Program at the site in order to expand the employment opportunities of Native Americans through enhanced training, job placement, and relocation services.

Several DOE offices are currently sponsoring research and analysis activities designed to identify and address Department activities that may have a disproportionate impact on minority and low-income communities. These include analysis of increased risks to subsistence hunters and fishers and the effect of the Clean Air Act on minority and low-income communities. Relevant offices are supporting the development of revised NEPA guidelines that include

equity analyses in social impact assessments and "equity metrics" to serve as indicators of program outcomes for minority and low-income communities.

DOE's Office of Environment, Safety, and Health is providing funds to the Center for Disease Control, National Center for Environmental Health, to conduct health studies at various sites around the DOE complex. A key public health consideration in the communities surrounding these sites, is the distinctive life style of minority and low-income populations that rely on subsistence hunting, gathering, and fishing that results in potentially heightened exposure to environmental contaminants.

Next Steps

The Department of Energy continues to solicit stakeholder input into its environmental justice strategy and the document will continue to evolve as the Department's understanding of the impact of its activities on minority populations and low-income populations grows.

The Executive Order requires the submittal to the President of an implementation plan for the strategy in May of 1995. Development of the plan is underway. The Department will also participate in the development of interagency model projects that encourage cooperation among federal agencies. A report on the progress of the Department on the implementation is due in February of 1996.

Individual programs within the Department will continue to initiate and support the implementing activities they have identified in the strategy. These include but are not limited to the expansion of the Environmental Management Clearinghouse to include environmental justice related information; identification of potentially affected minority and low-income populations; the revision of NEPA guidelines to include environmental justice in the socioeconomic analyses and expand the opportunities for minority and low-income community involvement in the process; identify grass roots organizations and networks with which the Department should interact; review current research and data collection practices to identify and include

segments of the population at high risk from environmental hazards, and where appropriate, establish specific performance criteria to evaluate progress toward achieving environmental justice goals.