

Nomination Received by Council on Environmental Quality, Executive Office of the President
For the CEQ NEPA Pilot Project Program
<http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/nepa-pilot-project-nominations>

PART I. NOMINATOR

First Name:	Suzi
Last Name:	Ruhl
Organization:	US EPA Office of Environmental Justice
Project Title:	Advancing Efficiency and Effectiveness of an EJ Analysis in NEPA Review
Submitted by:	Federal Agency
Date Received:	06/15/2011

PART II. SHORT ANSWERS

I. What Federal agency or agencies will be involved in this pilot project?

The US EPA will lead this project and work collaboratively with the Federal Interagency Working Group on Environmental Justice (IWG) which was established in 1994 under Executive Order (EO) 12898 and is comprised of 15 federal agencies and several White House offices. More specifically, EPA’s Office of Environmental Justice (OEJ) will engage volunteers from IWG member agencies that are commencing work on a NEPA Environmental Impact Statement (EIS) for participation in the pilot project.

II. What is the Federal action to which this NEPA pilot project applies?

The Presidential Memorandum accompanying Executive Order 12898 states that “each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by [NEPA].” This has catalyzed efforts to conduct environmental justice analyses in a variety of venues; including rulemaking, permitting, and the NEPA review process. The proposed NEPA pilot project would apply to the assessment, alternatives and mitigation elements of an environmental justice analysis for EIS reviews completed by participating agencies. The pilot project will provide a template for these agencies to follow when analyzing the environmental justice component of their EIS.

III. How will this pilot project reduce the costs and time needed to complete the NEPA process?

Providing a succinct, user-friendly template for the initial environmental justice analysis in the EIS will reduce both costs and time for an agency. A significant amount of agency resources are spent revising the environmental justice section of the EIS to address deficiencies in the initial analysis for: 1) determination of the affected area; 2) identification of minority, low-income and tribal or indigenous populations; 3) analysis of the affected area; 4) proposal of environmentally preferable alternatives; and 5) appropriate mitigation measures. Following the template will alleviate the burden of ‘reinventing the wheel’ and save funds which would otherwise be allocated to correcting these deficiencies. Further, the template will identify relevant sources of data (e.g. medically underserved areas, emergency response capacity) that can be accessed to complete an EJ analysis. A clear and succinct roadmap for the EJ analyses may alleviate the strain on agency resources from future litigation by clarifying the nature of

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relevant information that can be provided by EJ communities at the commencement of the NEPA review process.

IV. How will this pilot project ensure rigorous environmental protection?

The pilot project will ensure agencies have properly considered all necessary aspects of an EJ analysis and considered available and relevant data on environmental, health and socioeconomic issues. A proper analysis will in turn ensure a hard look was taken by the agency when considering the potential disproportionate impacts the action may have on EJ communities within the proposed action's radius of influence. Specifically, the template affords rigorous protection by providing a consistent assessment of the special conditions that create vulnerability within minority, low-income and tribal or indigenous populations. The template also provides insight into how various alternatives may alleviate disproportionate impacts on EJ communities. Additionally, the pilot project will expand the opportunities for agencies to use mitigation measures for addressing unique impacts on vulnerable populations.) Furthermore, the template creates a baseline for both agencies and EJ communities to better appreciate the long-term impact of proposed activities. Finally, the pilot project provides a catalyst for promoting collaboration among relevant stakeholders to address EJ issues within the context of the proposed action.

V. How will this pilot project improve the quality and transparency of agency decisionmaking?

The EJ template for federal actions will improve the quality of decision-making by informing the agency of issues that might not be readily apparent from the outset. Providing a structured means of identifying potential impacts from federal actions will improve the quality of analysis for the environmental justice component of the EIS. The template will also facilitate a richer interaction between the agency and EPA during the comment process. Receiving comments from outside agencies and incorporating the provided insight into the EIS is an important aspect of the NEPA process. The template will assist agencies in making more focused environmental justice analyses during the initial draft of the EIS. This in turn will enable EPA to contribute more nuanced responses, rather than addressing initially overlooked or incorrectly analyzed issues.

The transparency of agency decision-making will be enhanced as EPA will have a roadmap for following the development of the analysis presented in the environmental justice section of the EIS. The template will provide EPA valuable insight into the formulation of the analysis through comparison of the EIS and the template. Additionally, transparency in the decision-making process will increase through dissemination of the template to the affected community during the NEPA process. The template will provide communities with assurance that a thorough and uniform methodology is in place for analyzing impacts to minority, low-income, and tribal communities. Transparency will also be fostered through community front-end engagement with agencies during the review process.

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VI. Will this pilot project develop best practices that can be replicated by other agencies or applied to other Federal actions or programs? Please describe?

The best practices developed through the pilot are intended to be utilized by all Federal agencies engaged in the EJ component of an EIS. Although initially limited to agencies participating in the pilot project, the best practices developed can be replicated for any Federal action and utilized by any Federal agency. By developing a template for the core analysis of the environmental justice component of an EIS, the pilot project could conceivably become the genesis of EJ analysis templates for specific categories of federal actions.

PART III. PROJECT DESCRIPTION

(See attachment on following page.)

Project Description

Project Title: Advancing Efficiency and Effectiveness of an EJ Analysis in NEPA Review

Purpose: The purpose of this Pilot is to enhance efficient and effective consideration of environmental justice (EJ) during NEPA reviews. A primary objective is to improve effectiveness of public engagement through clarifying the elements of decision-making and aligning regulatory authorities with EJ community input. The pilot will also simplify NEPA implementation practices and reduce time and costs by standardizing methods for conducting an EJ analysis, addressing potential impacts to EJ communities and measures to mitigate those impacts, identifying data sources for EJ analyses, and conserving agency resources through transparent front-end approaches to EJ analysis.

Problem/Need: A need exists to engage EJ communities in more meaningful participation at the beginning of the NEPA review process which will enhance the quality of agency review. Many EJ communities lack the technical expertise and capacity to effectively participate due to lack of understanding of the relevant scope of comments in alignment with statutory, regulatory and policy objectives. Further, there is inconsistency in approaches used by federal agencies in conducting EJ analyses related to identification of minority, low-income and tribal or indigenous populations, assessment of potential impacts to these populations, and identification of mitigation measures. A template allowing for agency-specific adjustment that standardizes best practices and distills them into a clear and cogent format will facilitate more effective public participation, strengthen consideration of EJ issues, and promote efficient and cost effective government review.

In addition, federal agencies may experience challenges in accessing identifiable data sources for conducting EJ analysis resulting in missed opportunities and increased delays. Community demographics, health disparities, and emergency response planning are areas in which data sources are available and of great importance to the EJ analysis. The identification of relevant data sources and facilitation of access to these resources will enhance NEPA review both by ensuring these data sources are utilized and in eliminating time spent in replicating data. Finally, a clear and succinct roadmap for the EJ analyses may alleviate the strain on agency resources from future litigation by clarifying the nature of relevant information that can be provided by EJ communities at the commencement of the NEPA review process.

Opportunity: As a result of the Administration's emphasis on EJ, many best practices are emerging that can enhance the NEPA review process. For example, EPA has strengthened EJ analyses for rulemaking in the *Interim Guidance on Considering Environmental Justice During the Development of an Action*. Additionally, EPA is addressing EJ in the permitting process pursuant to the Considering Environmental Justice in Permitting element of Plan EJ 2014, which is EPA's road map for advancing environmental justice across the agency and federal government. Specifically regarding NEPA, the Federal Interagency Environmental Justice

Working Group on EJ (IWG) has recognized NEPA as an important venue for addressing environmental justice. Further, individual agency methodologies for conducting EJ analyses indicate opportunities for standardization that will improve efficiency for government and EJ communities.

Description of Pilot: EPA will work collaboratively with the IWG to propose, test and finalize a standardized approach that agencies can consider for EJ analyses in their NEPA reviews. This approach would be aligned with statutory, regulatory and policy provisions (e.g., determining the affected area, identifying minority, low-income and tribal populations, and delineating mitigation pursuant to avoidance, minimization, or compensatory measures). Specific steps include:

- 1) EPA will develop a strawperson template from existing experience.
- 2) EPA will work with the IWG to secure participation by 2-4 Federal agencies and convene a meeting to discuss the pilot project.
- 3) Participating agencies will: a) test the template on a new NEPA review document and identify methods for improving the design; b) participate in a facilitated dialogue (i.e. periodic workgroup meetings) to share information and insights.
- 4) EPA will use the findings from the pilot and develop a draft environmental justice template and produce a how-to guide that can be made available to government and the public.
- 5) Participating agencies and EPA will convene a webinar to share the template results with a wider group of Federal agencies.

The project builds on existing experience in EJ analyses based on EPA interaction with federal agencies preparing EIS documents. The project will commence within one month of approval and continue 18 months. Major milestones are: development of a template (months 1-2); engagement of federal partners (months 3-4); testing the application of the template (months 5-15); and production of the tool kit and webinar (months 16-18). EPA will provide both staff time and logistics.