

Department of Commerce Environmental Justice Strategy

Annual Progress Report 2014

Theme: Making a Visible Difference in Overburdened Communities

The MOU on Environmental Justice (EJ) and Executive Order 12898 (EO) directs each Federal agency to provide a concise report on progress during the previous fiscal year in carrying out the agency's EJ Strategy and EO by the February 11 anniversary of the EO.

I. INTRODUCTION/OVERVIEW:

The Department of Commerce Environmental Justice (EJ) Strategy outlines the specific steps the Department is taking to ensure the fair treatment and meaningful involvement of all individuals by integrating EJ into its programs, policies, and activities. The Department of Commerce creates the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship informed by world-class scientific research and information. The Department's programs to promote job creation, economic growth, sustainable development, and improved standards of living for all Americans foster public health benefits for disadvantaged and distressed communities and businesses.

II. IMPLEMENTING ENVIRONMENTAL JUSTICE STRATEGY AND IMPLEMENTATION PLANS

The Department of Commerce EJ Strategy was drafted through a combination of internal Departmental discussions, stakeholder input, and review by the Interagency Working Group on Environmental Justice (EJ IWG). Stakeholders were provided numerous opportunities to comment on the Department's EJ Strategy, including through the Department's participation in numerous public meetings and teleconferences, targeted distribution of the draft Strategy to EJ organizations, and a public comment process that ran from September 30, 2011 to November 30, 2011 on the Department's website. Through these avenues, the Department received numerous verbal and three written comments or suggestions. These comments were addressed in the final Department of Commerce EJ Strategy, which is available at <http://open.commerce.gov/news/2013/02/21/departments-commerce-environmental-justice-strategy>.

The Department engaged in a number of activities furthering EJ through its various operating units:

National Oceanic and Atmospheric Administration (NOAA)

a. Recovery of Protected Species

- The Greater Atlantic Regional Fisheries Office (GARFO) is working with federally recognized tribes in our Region to ensure they are included as important partners in the GARFO Strategic Plan.
- In the Northeast, a representative of the Penobscot Indian Nation is a member of the Atlantic Salmon Management Board and has participated with NOAA, the U.S. Fish and Wildlife Service, and the Maine Department of Marine Resources in developing and implementing a joint framework for salmon recovery. Through the Species Recovery Grant Program, NOAA provided four years of funding to the Penobscot Indian Nation to

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conduct research and participate in outreach for Atlantic salmon further improving the working relationship with the Penobscot.

- In the Pacific Northwest, Puget Sound salmon are the most significant treaty resource to western Washington tribes, but several salmon runs are at risk of extinction and protected under the Endangered Species Act. Western Washington treaty tribes recently raised concerns about their treaty rights because of declines in fish runs due to habitat loss. They have urged the federal government to protect their rights by protecting habitat. NOAA is one of three agency co-leads working to provide and improve information on habitat loss, habitat needs, scientific review of types and rates of habitat loss, and improve coordination of federal and state enforcement of existing laws which protect salmon habitat.
- In 2012, NOAA worked through the International Whaling Commission to renew aboriginal subsistence whaling catch limits through 2018 for Alaska Natives and the Makah Tribe at levels consistent with species conservation. In 2013, NOAA issued a Record of Decision under the National Environmental Policy Act (NEPA) recognizing the cultural and subsistence needs of Alaska Natives to harvest bowhead whales while allowing the stock to rebuild. NOAA is preparing a NEPA evaluation of the Makah Tribe's request to hunt Eastern North Pacific gray whales, addressing the Tribe's cultural and subsistence needs while ensuring that the species remains a significant functioning element of its ecosystem. For several years, NOAA has provided the Makah with funding via a "Species Recovery Grants for Tribes" program to participate in research on gray whales, Steller sea lions, Southern Resident killer whales, and humpback whales.

b. Sustain Healthy Coastal Ecosystem

- NOAA works to manage fish stocks important to commercial, recreational and subsistence fisheries.
- NOAA is coordinating with the Passamaquoddy Tribe in order to improve habitat connectivity and quality in the St. Croix River in order to increase the distribution and abundance of anadromous fish. The St. Croix River flows along part of the border between Maine and Canada.
- In January 2014, NOAA released its third annual report on groundfish fishery performance, which compares fishing year 2012 (May 2012 through April 2013) to fishing years 2009-2011. Coincident with significant quota reductions necessary to rebuild some stocks that are at or near historically low levels, fishing year 2012 brought a halt to the upward trends in landings and revenues seen in the fishery from 2010 to 2011, which will in turn adversely affect subsistence fishermen. In 2012, NOAA took a number of steps to improve fishing opportunities for groundfish vessels including increased quotas and access to more abundant groundfish and other key stocks; reduced minimum legal sizes to allow more of the fish that are caught to be landed; and reduced reporting and monitoring requirements for some types of fishing vessels. NOAA also worked with federal partners to increase industry awareness of available financial assistance and grant programs and to explore product marketing opportunities to help fishermen.
- The Mid-Atlantic Fishery Management Council collected input from a wide range of communities through surveys, roundtable meetings, and position letters as part of a

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visioning and strategic planning project designed to develop a comprehensive, stakeholder-informed vision for managing fisheries. The goals of the project were to define and develop new ways for the Council to engage constituents, including subsistence fishermen, and to define strategies to address key challenges. The feedback and recommendation suggested by stakeholders will be used to help develop future management plans.

- Collecting adequate fisheries science data in the U.S. island territories and commonwealths presents unique challenges and requires additional investments in personnel and resources to be successful. To help address these challenges, NOAA allocated modest funding in 2013 to begin a Territorial Sciences Initiative and has increased our funding support in 2014. Most funds from this initiative will be spent in the territories to support locally-based science, to build scientific and monitoring capabilities, enhance capacity, and build institutional relationships. This initiative would include grants to and contracts with the territorial fisheries agencies as well as to local academic institutions and cooperative research partners to help build local scientific capacity.
- The Office of National Marine Sanctuaries serves as the trustee for a network of 14 marine protected areas encompassing more than 170,000 square miles of marine and Great Lakes waters from Washington State to the Florida Keys, and from Lake Huron to American Samoa. The Office of National Marine Sanctuaries regards the involvement of communities and the development of a stewardship ethic as vitally important to successfully protect sanctuary resources. All 14 sites in the sanctuary system have an advisory council - a community-based advisory group consisting of representatives from various user groups, government agencies and the public at large. The role of the council is to provide advice to the sanctuary superintendent on the designation and/or operation of a national marine sanctuary. The members of councils serve as a broad cross-section of the communities that lie adjacent to sanctuaries. In total, approximately 440 people (members and alternates) serve on advisory councils. Individuals from all walks of life serve their communities and sanctuaries as members of advisory councils and advisory council working groups and subcommittees. Council members include fishers, divers, teachers, boaters, business people, activists, protected area managers, scientists, tribal representatives and elected officials.

c. Habitat Conservation

- NOAA continued to partner with Klamath Basin stakeholder groups to advance the Klamath Hydroelectric Settlement Agreement (KHSAs) and the companion Klamath Basin Restoration Agreement (KBRA) through the Klamath Basin Task Force, which was assembled in the summer of 2013 to respond to impacts from water rights calls by the Klamath Tribes of Oregon and the U.S. Bureau of Reclamation. In 2013, NOAA, along with members of the Klamath Tribes and Klamath Basin agriculture community, energy corporations, federal and state officials, have developed recommendations for one comprehensive piece of legislation that will provide a foundation for long-term solutions to Basin issues, including ensuring that the tribes have a greater role in federal decisions affecting Klamath Basin Tribes. In 2014, NOAA committed to working with our tribal

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and non-tribal partners in the Klamath to work towards resolving key issues in an effort to finalize the Agreements.

- NOAA continues work on a key effort to sponsor and collaborate with civic organizations to conduct fishing events for underprivileged/minority demographics and disabled veterans in southern California. These events all include a conservation education component as well as teaching proper angling techniques and Ethical Angling to youth and adults that are mainly from inland areas that may not have the opportunity to visit the beach and ocean if not for these trips.
- Through the Damage Assessment Remediation and Restoration Program (DARRP), NOAA continues to work with other co-trustees including tribal groups to restore natural resource damages from oil spills, chemical releases, and hazardous waste sites across the country. For more than 20 years, NOAA has worked to recover more than \$2.3 billion for protection and restoration of coastal resources. Among the many projects funded by these efforts, DARRP has increased access for recreational and subsistence anglers, ecological restoration, cultural projects, and remediation of contamination.

d. Weather

- NOAA is working toward building a Weather-Ready Nation (WRN), which is about strengthening community resilience in the face of increasing vulnerability to extreme weather, water and climate events. WRN is about empowering people to make lifesaving decisions that also prevent devastating economic losses. Improved access to timely and effective forecasts is important for everyone, but vulnerable populations may require specially tailored forecasts or focused dissemination strategies. The foundation of WRN is that government cannot do this alone, but must foster innovative partnerships across all levels of government, the private sector, academia, and non-profit organizations
- Guiding future NWS services is the *NWS WRN Roadmap 2.0* and *WRN Action Plan for FY2015*. The *Roadmap* and *Action Plan* will align NWS programs and services in order to help the Nation become Weather-Ready.
- The WRN Ambassador initiative kicked off in January 2014. This initiative formally recognizes the commitment of external organizations make to contribute to a WRN. WRN Ambassadors promote NOAA preparedness and resilient messaging, work with NOAA on collaborative opportunities, share success stories of resilience, and serve as examples by strengthening their employees' preparedness against extreme weather, water, and climate events. As of January 31, 2015, there are 1,230 organizations recognized as WRN Ambassadors.
- Through the WRN initiative, the National Weather Service (NWS) is using new forecast tools and communication methods to reach diverse communities across the Nation:
 - The NWS StormReady® program helps communities develop emergency plans to handle severe weather. As of January 31, 2015, there were 2,281 StormReady® sites.
 - NWS has engaged social scientists to support development and testing of new language and graphics for its weather and water hazards messages with the goal of maximizing their simplicity and clarity. Specifically, prototypes are being developed to test alternatives to the current “Watch”, “Warning” and “Advisory” system, especially as it relates to expressing forecast impacts and uncertainty.

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- Ensuring NWS users understand and respond appropriately to its hazards messages is foundational to WRN.
- NWS has a team developing an Impacts Catalog, capturing stakeholder thresholds and decision criteria that allow for improved Impact Decision Support Services (IDSS). Integrating NOAA generated information with stakeholders' unique factors and interests will result in improved decision making.
 - In its efforts to reach the broadest audience possible, NWS also partners with the Federal Emergency Management Agency (FEMA) and other key partners on [seasonal safety campaigns](#). This collaboration also includes the promotion of "[America's PrepareAthon!](#)" which directly supports Presidential Policy Directive - 8. Over the past year PrepareAthon! has accounted for over 9 million individual commitments for taking preparedness actions such as building a disaster kit.

Patent and Trademark Office (USPTO)

- Patents for Humanity is the USPTO's awards competition for innovators who use patented technology to address humanitarian needs, including issues with environmental impacts like sanitation, clean water, and energy. After a pilot in 2012, the program was renewed as an ongoing program in early 2014 with support from the White House. The program rewards companies and others who bring life-saving technologies to underserved populations, while showing how patents are an integral part of tackling the world's challenges. Interested participants submit entries describing how they have used their patented technology to address humanitarian challenges in medicine, nutrition, sanitation, energy, and living standards. Volunteer experts from outside USPTO evaluate the entries and recommend awards. Winners receive a certificate for accelerated processing of select patent matters at USPTO. This creates a powerful tool for businesses to expedite handling of their most important matters and help validate technology in the market – leading to quicker and more efficient investment decisions.

Economic Development Administration (EDA)

- Throughout Fiscal Year 2014, EDA continued its commitment, through its grant-based economic development investments and related activities, to the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EDA remained focused on working in partnership with communities and regions that may frequently be identified as impacted by EJ issues: economically distressed urban and rural communities, often with minority and low-income populations. Through its suite of economic development grant programs, EDA funded projects that were developed at the local level. By funding only community-driven, regionally-owned investments, EDA continued its commitment to avoiding the imposition of environmental burdens on unknowing communities.

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- EDA continued to perform its own environmental reviews to identify any adverse environmental impacts associated with its project investments, as required under the NEPA. EDA's environmental review process provided an opportunity to evaluate the full environmental impact of an EDA-funded project, to ensure that the project complied with all applicable environmental laws and regulations and identify any potential disproportionate and adverse environmental or health effects on low-income and minority populations.
- EDA continued to implement a set of investment policy priorities to help prioritize and focus EDA investment funding as part of the competitive grant process. Two of these priorities were aimed specifically at mitigating the burdens of, or bringing benefits to, communities experiencing EJ issues and promoting equitable development. The *Economically Distressed and Underserved Communities* priority was intended to promote EDA-funded projects that strengthen diverse communities that have suffered disproportionate economic and job losses and/or are rebuilding to become more competitive in the global economy. The *Environmentally-Sustainable Development* priority encouraged EDA-funded projects that promote economic competitiveness through improvements in environmental quality (e.g., brownfields redevelopment, developing green end-products, greening of processes, or development of green buildings or places).

Economics and Statistics Administration (ESA)/Census Bureau/Bureau of Economic Analysis (BEA)

- ESA, BEA and the Census Bureau have continued to generate and distribute high quality income and population data for use by other agencies in evaluating potential EJ issues.

National Institute of Standards and Technology (NIST)

- NIST activities in the Department's EJ Strategy were previously completed, and therefore Commerce has no update on these activities.

National Technical Information Service (NTIS)

- NTIS activities in the Department's EJ Strategy were previously completed, and therefore Commerce has no update on these activities.

National Telecommunications and Information Administration (NTIA)

- NTIA activities in the EJ Strategy were previously completed, and therefore Commerce has no update on these activities.

Minority Business Development Agency (MBDA)

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- MBDA continues to promote the growth and expansion of minority businesses through 44 business centers primarily located in communities with a high density of minority populations and many affected by EJ issues.
- Renewable energy is one of the nation's fastest growing business sectors, and MBDA has helped Sacred Power Corporation expand its reach, stimulate the local economy, and create jobs for a diverse population including Native-American workers. MBDA has assisted Sacred Power Corporation with marketing the proposals that they bid on, finding funding and bonding as well as all around business development.
 - Davis Melton is a Lugana Tribal member and the CEO for Sacred Power Corporation, he brings electricity to isolated homes and facilities on the Navajo Reservation in New Mexico and across the nation in rural-remote areas, using wind turbines and photovoltaic modules.
 - As an emerging clean energy technology company, Sacred Power is experienced in all facets of renewable energy development including: telecommunications, power generation, home electrification, village electrification, and community water. Sacred Power has extensive experience in designing and installing solar-powered water pumping systems, solar hot water systems, solar hot air systems, and wind turbines.
 - Its major customer base is federal, state and tribal governments that include: U.S. Department of Agriculture's Rural Utility Service, U.S. Department of Energy, Tribal Energy Program, U.S. Department of Defense, Army's Rapid Deployment Forces, Center for Army Analysis, Army Research Base, U.S. Department of Interior's Bureau of Indian Affairs, Office of Law Enforcement Services, U.S. Fish & Wildlife, State of New Mexico's Energy Office, National Guard Bureau, Park's Division, and multiple tribes throughout the nation.
 - Sacred Power Corporation is an 8(a) certified, small disadvantaged, HUB Zone Certified and Native American-owned firm headquartered in Albuquerque, NM.
- MBDA has also provided cooperative assistance to Coastal Environment Group, a company that began with a low cash flow but has since flourished after gaining its first government contract. In the aftermath of some of America's darkest hours, Coastal Environment Group has been called to on to assist in some of the most sensitive remediation and hazardous material removal such as Ground Zero, post Hurricane Katrina in New Orleans and the EPA Superfund site in Omaha.
 - For the last 13 years, Coastal Environmental has offered remediation, construction, marine construction, emergency response, demolition, electrical contractor and wiring and has recently expanded its services into the energy efficiency area. MBDA, through its New York business center, has assisted Coastal Environmental with navigating economic downturns by facilitating partnerships with other companies in order to remain competitive.
 - Coastal Environmental is a federal 8(a)/HUB Zone and MBE/DBE contractor with LEED certification, and government contracts including MATOC, IDIQ and Task Orders.

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III. EJ STRATEGY UPDATES/REVISIONS

The EJ IWG is working to facilitate the active involvement of all Federal agencies in implementing the Executive Order that established EJ responsibilities (EO 12898) by minimizing and mitigating disproportionate negative impacts while fostering environmental, public health, and economic benefits for overburdened communities. Federal agencies have made significant progress towards fulfilling the promise of EO 12898 under the leadership of EPA and the White House Council on Environmental Quality (CEQ). Starting with a cabinet-level meeting and the first-ever White House Forum on Environmental Justice in 2010, federal agencies reinvigorated the EJ IWG. Seventeen cabinet members and White House offices signed the Memorandum of Understanding on Environmental Justice and Executive Order 12898 (EJ MOU) in 2011. In keeping with a commitment to hear from communities, the EJ IWG conducted 18 community listening sessions across the country in 2011-2012. Fifteen Federal agencies, including the Department of Commerce, issued final agency EJ strategies, implementation plans, and/or progress reports in 2013. In August 2011, the EJ IWG identified the National Environmental Policy Act (NEPA), Title VI of the Civil Rights Act of 1964, Goods Movement, and Climate Change as priority issues, and has initiated efforts to address them.

The EJ IWG will continue to focus its efforts on the four focus areas identified in the EJ MOU and continue to conduct listening sessions. In addition, the EJ IWG established a committee on regional activities. The EJ IWG will also support the President's Climate Action Plan.

IV. COMMUNITY ENGAGEMENT ACTIVITIES AND RESULTS/IMPACTS

Tribal Consultation

On July 3, 2012 the Department of Commerce released its draft Tribal Consultation and Coordination Policy for public comment.

- This Policy implements the principals expressed in President Obama's Executive Order issued on November 5, 2009.
- The President's Executive Order requires all agencies in the Federal government to recognize tribal governments as the governments of separate sovereign within the United States. This relationship is unique as the Federal government has not developed a trust relationship with any other governmental entity.
- The Policy outlines consultation obligations and procedures for all Department of Commerce bureaus for developing policies that have tribal implications.

The Department held two national tribal consultation webinars on September 12 and 19, 2012 to discuss the proposed policy. The Department received written statements from fifteen tribal governments and tribal organizations. Formal responses to the recommendations are being developed and policy was finalized on May 21, 2013.

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NOAA

- In 2014, NOAA released a Tribal Consultation Handbook for use by staff in their discussions with the tribes. The procedures outlined in this Handbook provide further guidance to support a more consistent, effective and proactive approach to conducting government-to-government consultations with Federally-recognized Indian tribes under E.O. 13175 and the DOC's Tribal Consultation Policy. These procedures are intended to improve consistency across NOAA offices and provide a foundation on which offices may adopt mission-specific procedures tailored to their needs and based on the resources available to conduct consultations. The Policy is intended to improve NOAA's management of its relations and cooperative activities with Indian tribes and their governments. The procedures are intended to provide for meaningful and timely input from tribes into the Federal decision-making process on policy matters having substantial direct effects on them. Since the release of the Consultation Handbook, we have held successful and well-attended internal training classes.
- The US Fish and Wildlife Service organized a listening session to hear concerns and interests from the Southern New England Tribes (Mashantucket Pequot Tribal Nation, Mashpee Wampanoag Tribe, Mohegan Tribe of Indians of Connecticut, Narragansett Indian Tribe and the Wampanoag Tribe of Gay Head (Aquinnah)) regarding the government-to-government relationship, how to strengthen the federal agency - tribal relationship, and how to make the consultation process more efficient. Key staff from the NOAA's Greater Atlantic Region Fisheries Office helped plan the meeting and actively participated in this listening session.

MBDA

- MBDA's centers are funded through grants which are cooperative agreements. In addition to the MBDA centers that operate under the MBDA Business Center (MBC) program, MBDA instituted a program in 2012, the MBDA Business Center American Indian Alaskan Native (MBDA BC AIAN), specifically designed to serve the American Indian Native Alaskan population. The MBDA AIAN Program promotes the growth and competitiveness of American Indian and Native Alaskan-owned businesses. MBDA funds six MBDA AIAN centers located throughout the United States and supplements one MBC to service American Indian Alaskan Native clients.

V. CLIMATE CHANGE ADAPTATION

NOAA

- NOAA provides a range of climate data that can assist EJ communities in identifying whether they are at risk from climate change and provides a number of tools for communities to assess how to mitigate those risks. NOAA provides Digital Coast—an online access point for much of NOAA's data and tools that can help plan for long-term climate impacts and aid in recovery efforts from extreme events. Digital Coast provides data, tools, case studies, stories from the field, and training in how to apply

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Digital Coastal resources. Some of the updated data sets from 2014 found in Digital Coast include:

- New geographic areas in the Sea Level Rise Viewer, now covering most U.S. coastal areas
- The Great Lakes level viewer launched
- U.S. Interagency Elevation Inventory topographic data
- NOAA leads the National Integrated Drought Information System (NIDIS) that provides accurate, timely, and integrated information on drought conditions and impacts through a nation-wide integrated drought information system. In 2013, NOAA also helped to launch the National Drought Risk Management Partnership (NDRP), a key initiative of the President’s Climate Action Plan, which builds the link between NOAA data and communities suffering from drought. Priority areas in the first year included those most affected by ongoing drought conditions and those that are underserved, such as the upper Midwest, the Southwest, and tribal communities. In 2014, the NDRP focused on California communities in need.
- NOAA maintains the Local Climate Analysis Tool (LCAT), a web-based interactive statistical tool that uses trusted data and recommended climate analysis methods to provide climate-related information at regional and local levels. The tool helps users understand local climate variability and its impacts and identify local climate trends in the context of climate change. It also provides information on the linkage between weather and water events to various climate signals.
- In response to the President’s Climate Action Plan and Executive Order to help the nation prepare for the impacts of climate change, NOAA hosts and manages the U.S. Climate Resilience Toolkit (toolkit.climate.gov). The Toolkit provides scientific tools, information, and expertise to help people manage their climate-related risks and opportunities, and improve their resilience to extreme events. It is designed to serve interested citizens, communities, businesses, resource managers, planners, and policy leaders at all levels of government. The Toolkit’s “Climate Explorer” features map layers showing climate-related stressors and vulnerable populations and infrastructure. Topics addressed include Coastal Flood Risk, Food Resilience, Ecosystem Vulnerability, and Human Health. Two new sections of the Toolkit are currently under development focusing on climate impacts on Water Resources and Tribal Communities. The Toolkit’s 5-Step Planning Process helps people in businesses as well as state, local and tribal governments work through the process of identifying what populations and assets are at risk, and where, and what actions can be taken to build resilience. A “Tools” compendium provides a suite of decision-support tools and the “Taking Action” library of case studies presents success stories of real-world people across the nation who have used these tools in their resilience-building efforts.

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VI. IMPLEMENTATION PROGRESS IN EJ IWG FOCUS AREAS

This section will feature template language about the four EJ IWG focus areas with special emphasis on agency-specific efforts to support these efforts.

NEPA

- The EJ IWG's NEPA Committee is improving the effectiveness, efficiency and consistency of the NEPA process to enhance consideration of EJ through the sharing of best practices, lessons learned, training and other tools. Since its inception in May 2012, the NEPA committee has taken several steps toward achieving its mission. Initially, an electronic compendium of publicly-available NEPA and EJ-related documents from almost twenty federal agencies is provided on the IWG website; key references from this EJ and NEPA Agency Resource Compendium are also included on EPA's NEPA Webpage. In addition, the NEPA Committee has conducted a cross-agency training series on existing tools, methods, and agency-specific focal areas. The Community of Practice Subcommittee is compiling a best practices approach that efficiently and effectively considers EJ in NEPA reviews. The Education Subcommittee has conducted a review of existing federal agency training materials on EJ and NEPA, and is using this assessment to produce a national NEPA training module on NEPA and EJ with the focus on effective EJ analysis in the NEPA process.
- Moving forward, the Committee will continue to advance cross agency understanding of opportunities to advance EJ through increased understanding of challenges and opportunities, articulation of effective best practices, training on general and specific NEPA and EJ topics, and other measures. Altogether, these efforts will continue to provide federal officials, at all levels, with a foundational understanding of NEPA's role in addressing EJ through assessment, consideration of alternatives, avoidance and mitigation during the NEPA review process.