

Department of Commerce Environmental Justice Strategy Annual Progress Report 2013

Introduction/Overview

The Department of Commerce Environmental Justice (EJ) Strategy outlines the specific steps the Department will take 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. The Department's strategic goals of promoting innovation and entrepreneurship, market development and commercialization, science and information, and environmental stewardship all aid in efforts to achieve EJ.

Development of 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 (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/department-commerce-environmental-justice-strategy>.

Community Engagement Activities and Results/Impacts

During the past two years, federal agencies have made significant progress towards fulfilling the promise of Executive Order 12898 under the leadership of the Environmental Protection Agency (EPA) and the Council on Environmental Quality (CEQ). Starting with a cabinet-level meeting and the first-ever White House Forum on Environmental Justice, federal agencies reinvigorated the IWG. In August 2011, seventeen cabinet secretaries or agency heads, including the Department of Commerce, signed a Memorandum of Understanding on Environmental Justice and Executive Order 12898 that formally recommitted their agencies to EJ and established priorities, structures and procedures for the IWG. In keeping with a commitment to hear from communities, the IWG conducted 20 community listening sessions across the country. Throughout 2012, federal agencies began issuing final agency EJ strategies, implementation plans, and/or progress reports. The IWG identified the National Environmental Policy Act, Title VI of the Civil Rights Act, and goods movement as priority issues. In addition, the IWG collaborated with other federal partnerships, such as Partnership for Sustainable

Communities, Urban Waters Federal Partnership, and Action Plan to Reduce Racial Ethnic Asthma Disparities, to produce environmental, health and economic benefits for overburdened communities.

White House Forum: In December 2010, the White House, cabinet secretaries, and senior officials from a wide range of federal agencies worked collaboratively to convene the first-ever White House Forum on Environmental Justice. The forum brought together administration officials, community leaders, and officials from state, local and tribal governments to discuss issues that were important to overburdened communities. Agency officials shared their vision for healthier and more sustainable communities as well as their agencies' approaches to achieve them. More than 100 community leaders engaged agency officials in discussion about federal programs and initiatives intended to produce environmental, health and economic benefits for overburdened communities.

IWG Community Dialogues: The IWG conducted 17 community dialogue sessions across the country between February 2011 and July 2012, as part of its effort to ensure that communities had a voice in helping to provide direction to federal agencies working to address environmental, human health and economic concerns. The sessions held were representative of the country in geographic, racial, ethnic and cultural diversity. Many communities voiced frustration regarding not knowing about available resources. The IWG responded by creating two documents, the EJ Federal Interagency Directory, and the Community-Based Federal EJ Guide. In addition, federal agencies incorporated the community input into their agency EJ strategies.

Memorandum of Understanding on Environmental Justice and Executive Order 12898 (EJ MOU): On August 4, 2011, heads of seventeen federal agencies – including Commerce – took a landmark step to support EJ by signing a formal agreement to recommit to addressing EJ concerns. Through the EJ MOU, the IWG's agencies committed to: (1) declaring the continued importance of identifying and addressing EJ considerations in agency programs, policies, and activities; (2) providing EJ strategies and implementation progress reports; (3) establishing structures and procedures to ensure that the IWG operates effectively and efficiently; and (4) identifying particular areas of focus to be included in the agencies' EJ efforts.

Commerce's **Economic Development Administration (EDA)** participated in an EJ IWG-led community dialogue held in Anchorage, AK and attended a Southeast Regional Interagency Working Group for Environmental Justice Partners' Meeting. Staff from the **National Oceanic and Atmospheric Administration (NOAA)** participated in a number of the IWG Community Dialogues and NOAA's Assistant Secretary played a leadership role in the White House Forum by shaping and participating in a panel focused on climate adaptation. EDA was an active participant in many of the federal partnerships that worked in close collaboration with the EJ IWG, including the Partnership for Sustainable Communities and the Urban Waters Federal Partnership.

NOAA and EDA are both members of the Urban Waters Federal Partnership, which has more broadly and fully engaged urban populations in protecting and restoring their local water resources. The initiative links water restoration to other urban community priorities such as employment, business development, educational, recreational, and social opportunities, while improving the long-term condition of urban waters. For example, NOAA has integrated several habitat restoration projects within the pilot projects in New Orleans and Bronx River and is coordinating clean-up and restoration actions for future projects in the Anacostia River and Baltimore.

Implementation Progress

1. Agency-wide Efforts that Advance Environmental Justice

National Environmental Policy Act (NEPA)

Recognizing that NEPA provides an important opportunity to advance the consideration of EJ through meaningful engagement of minority, low-income, and tribal populations potentially impacted by federal actions, the IWG formed the NEPA committee. The committee is co-chaired by the Department of Transportation (DOT) and EPA and currently includes representatives from approximately 20 departments and agencies, including Commerce. The committee's purpose is to improve the efficiency of the NEPA process across the federal government to enhance the consideration of EJ through the sharing of best practices and lessons learned. Thus, the NEPA committee supports federal agency NEPA implementation to "focus federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice."

Since its inception in May 2012, the NEPA committee has taken several steps toward achieving its mission, such as:

- Commencing a series of inter-agency meetings to identify and promote best practices related to EJ and NEPA analyses, including those related to public engagement and the mitigation and monitoring of environmental and human health impacts.
- Commencing a series of cross-agency training on existing tools, methods, and agency-specific focal areas for further incorporating EJ analysis within the NEPA process. The training is designed to inform agencies of the current state of NEPA-related EJ efforts across the federal family.
- Commencing the development of a national NEPA training module on EJ. The national training module will provide federal officials, at all levels, with a foundational understanding of NEPA's role in addressing EJ issues.
- Creating the EJ Resources Compendium, gathering in one place the publically available NEPA and EJ-related documents from federal agencies (e.g., regulations, guidance and circulars), providing hyperlinks to each document for quick access. The committee will publish the compilation online.

The NEPA committee plans to build on these early accomplishments in 2013.

In addition to participating in the NEPA committee, since 1995 the Department of Commerce has integrated EJ into its NEPA reviews of major agency actions. Any potential disproportionate and adverse environmental or health effects on low-income or minority populations are routinely considered.

Tribal Consultation

The Department's Tribal Consultation Official held two formal tribal consultation webinars to discuss the redesign of their Native American Business Enterprise Center program under the Minority Business Development Agency. These formal Tribal Consultation Webinars occurred on March 13 and March 15, 2012.

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 the final policy will be published Spring 2013.

2i. National Oceanic and Atmospheric Administration

a. Recovery of Protected Species

- In the Northeast, NOAA has consulted with tribal representatives regarding the petition the agency received to list river herring under the Endangered Species Act (ESA). NOAA will use any information we receive on the biological status of the species as well as tribal management activities for the species in making our listing determination. In addition, 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.
- 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 ESA. 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 was successful in its efforts through the International Whaling Commission to renew aboriginal subsistence whaling catch limits for bowhead and gray whales for the 2013-2018 time period. In addition, NOAA has provided direct and indirect funding for Makah tribal biologists to participate in extensive research over the last four years on the Eastern North Pacific gray whale, further improving the working relationship with the Makah.

b. Sustain Healthy Coastal Ecosystems

- NOAA is coordinating with the Passamaquoddy tribe on anadromous fish restoration issues on the St. Croix River that flows along part of the border between Maine and Canada in an effort to provide greater access to these fishery resources.
- In December 2012, NOAA completed the 2011 Final Report on the Performance of the Northeast Multispecies (Groundfish) Fishery: May 2011-April 2012. This report evaluated the social and economic performance of this fishery during this time period including revenue and employment trends. Study factors were evaluated by social science experts at the Northeast Fisheries Science Center as well as extensive stakeholder input in five key performance areas: financial viability, distributional outcomes, stewardship, governance, and well-being. The full report can be found at: <http://www.nefsc.noaa.gov/publications/crd/crd1230/>.
- 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 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 and define strategies to address key challenges. The feedback and recommendation suggested by stakeholders will be used to help develop future management plans.

c. Habitat Conservation

- NOAA partnered with 43 stakeholder groups to develop and finalize the Klamath Hydroelectric Settlement Agreement (KHSA) and the companion Klamath Basin Restoration Agreement (KBRA). These agreements ensure tribes have a greater role in federal decisions affecting Klamath Basin Tribes. Implementation of the KHSA and KBRA will help reverse the EJ impacts to the tribes that the dams created, including specific provisions to address economic security issues and providing job opportunities for tribal members. Fisheries and conservation projects would support fish population increases, allowing the tribes to increase subsistence fishing and once again make fish a larger component of their diet and ceremonies.
- NOAA will continue to work with and share information on the consumption of contaminated fish and shellfish by minority and low-income population groups with

other federal agencies such as the Food and Drug Administration to ensure communities avoid consumption of contaminated fish and shellfish.

- A key effort undertaken by NOAA is the sponsorship and/or collaboration 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.

d. Climate Change

- 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. In particular, 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 Digital Coastal resources. Some of the updated data sets from 2012 found in Digital Coast include:
 - Coastal socio-economic and land use change data
 - Pre-Sandy (and eventually post-Sandy) LIDAR data
 - Sea Level Rise and Coastal Flooding Impacts Viewer
 - Environmental Sensitivity Index (ESI) maps
 - Coastal County Snapshots which assess a county’s resilience to flooding and includes the benefits provided by natural resources
 - Risk and vulnerability assessments, and the Community Resilience Index

e. Weather

- NOAA is working toward a Weather-Ready Nation, which is about building community resilience in the face of increasing vulnerability to extreme weather and water events. Weather-Ready Nation (WRN) is about empowering people to make lifesaving decisions that also prevent devastating economic losses. It is all of us working together as a Nation known for its resilience in the face of deadly weather and water events.
- Through the WRN initiative, the National Weather Service (NWS) is using new tools and communication methods to reach diverse communities across the Nation:
 - NOAA launched a National Dialogue to build a Weather-Ready Nation in August 2011. The first in the series of National Dialogue events was held in Norman, OK, in December 2011 where six key actions were identified ranging from social science integration to reduced false alarm rates to warning dissemination. Since then, representatives from the emergency management community, the media, the weather industry, government agencies and the scientific community have come together four more times to continue the dialogue – at the American Meteorological Society’s annual meetings, the National Severe Weather Workshop and in Birmingham, AL, for the Weather-Ready Nation: Imperatives for Severe Weather Research.

- The NWS launched 6 community pilot projects in 2012 in strategic locations in the Gulf Coast, South and mid-Atlantic designed to improve our warning and forecast services. They are now operational in Silver Spring, MD, Fort Worth, TX, Sterling, VA, Slidell, LA, Tampa Bay, FL, and Charleston, WV. These pilot projects are helping communities reach the highest level of preparedness and resilience to high-impact weather while sharing best practices and lessons learned with other NOAA and NWS offices.
- In 2012, the NOAA Center for Weather and Climate Prediction opened at the University of Maryland, bringing together scientists, researchers and forecasters in a state of the art facility designed to encourage collaboration across disciplines.
- The NWS StormReady® program recently certified its 2,000th site. This nationwide program helps communities develop emergency plans to handle severe weather.
- NWS is also testing winter weather warnings in plain language that are easier for the public to understand. These warnings use examples from prior severe weather events in order to underscore the importance of preparation.
- In its efforts to reach the broadest audience possible, NWS also partnered with the Federal Emergency Management Agency (FEMA) in the first National Severe Weather Preparedness Week in 2012. The "be a force of nature" message of the campaign garnered 14 million impressions on Twitter. This effort continues into 2013.
- Guiding these and future activities is the NWS Weather-Ready Nation Roadmap 2.0. The roadmap will align NWS programs and services in order to help the Nation become Weather-Ready.

2ii. Economic Development Administration

- Throughout Fiscal Years 2011 and 2012, the Economic Development Administration (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.
- 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. In Fiscal Year 2012, EDA completed over 135 environmental assessments (for which EJ was considered as part of the review of each project).

- 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 environmental justice 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).
- EDA joined in various meetings of EJ IWG to explain the mission of EDA and its dedication to working with communities that are confronting EJ issues.

2iii. Economics and Statistics Administration/Census Bureau/Bureau of Economic Analysis

- 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.

2iv. Minority Business Development Agency

- MBDA continues to promote the growth and expansion of minority businesses through its 37 business development centers and 3 new satellites offices primarily located in communities with a high density of minority populations and many affected by environmental justice issues.
- 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 new program in 2012, the MBDA Business Center American Indian Native Alaskan (MBDA BC AINA), designed with input provided through consultations with the American Indian and Native Alaskan population. The MBDA AINA Program, which replaced the former Native American Business Enterprise Center or NABEC program, promotes the growth and competitiveness of American Indian and Native Alaskan-owned businesses. MBDA funds five MBDA AINA centers located throughout the United States and supplements two MBCs to service American Indian and Native Alaskan clients.

2v. National Institute of Standards and Technology

- The National Institute of Standards and Technology (NIST) activities in the Department's EJ Strategy were previously completed, and therefore Commerce has no update on these activities.

2vi. National Technical Information Service

- The National Technical Information Service (NTIS) activities in the Department's EJ Strategy were previously completed, and therefore Commerce has no update on these activities.

2vii. National Telecommunications and Information Administration

- The National Telecommunications and Information Administration's (NTIA) activities in the EJ Strategy were previously completed, and therefore Commerce has no update on these activities.

2viii. Patent and Trademark Office

- On December 8, 2009, the U.S. Patent and Trademark Office (USPTO) launched a pilot program to accelerate the review of green technology patent applications. The Green Technology Pilot Program was implemented to take those patent applications that pertained to environmental quality, energy conservation, and development of renewable energy or greenhouse gas emission reduction and advance them for expedited examination. Normally, patent applications are examined in order by filing date. The Green Technology Pilot Program permitted green technology applications to move to the front for examination. By the close of the Green Technology Pilot program on February 28, 2012, over 3,500 petitions had been approved for green technology, and as of February 19, 2013, 1,876 patents have been granted.
- Patents for Humanity is an award competition for patent owners and licensees. It is the USPTO's voluntary pilot program to recognize patent owners who apply their patented technology to address humanitarian needs including those with environmental implications such as water sanitization. This program rewards companies who bring life-saving technologies to underserved populations, while showing how patents are an integral part of tackling the world's challenges. Participants have submitted applications describing how they have used their patented technology or products to address humanitarian challenges. Judges will soon choose winners in four categories: medical technology, food and nutrition, clean technology and information technology. Winners will receive a certificate for accelerated processing of select patent USPTO matters. The program 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.