



ENVIRONMENTAL JUSTICE

***Commanders' Conference
13-14 March 2001***



Environmental Justice – What is it?

Environmental Justice:

Environmental Justice is 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.**

Fair Treatment:

Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.



Genesis of Environmental Justice

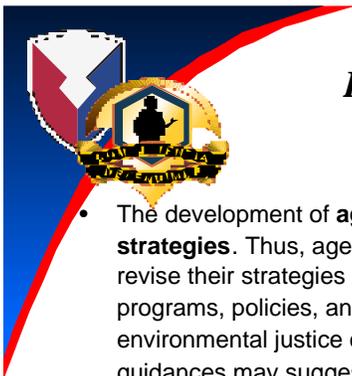
- The movement was started by people, primarily people of color, who needed to address the inequity of environmental protection services in their community. EPA's FAQs <http://es.epa.gov/oeca/main/ej/faq.html>
- *"Many people of color, low-income and Native American communities have raised concerns that they suffer a disproportionate burden of health consequences due to the siting of industrial plants and waste dumps, and from exposure to pesticides or other toxic chemicals at home and on the job ... EPA is committed to addressing these concerns and is assuming a leadership role in environmental justice to enhance environmental quality for all residents of the United States."*

Carol M. Browner, EPA Administrator
- Executive Order (EO) 12898, February 11, 1994, William J. Clinton.



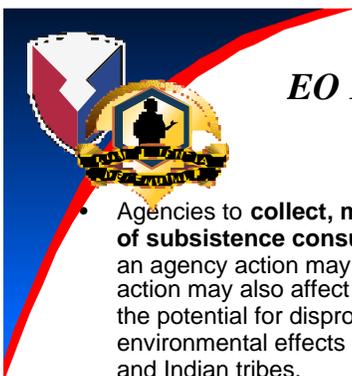
Goals of EO 12898

- Focus federal agency action on the environment and human health conditions in minority communities and low-income communities.
- **Promote nondiscrimination in federal programs** that substantially affect human health and the environment.
- Provide minority communities and low-income communities greater access to information on, and **opportunities for public participation** in, matters relating to human health and the environment.



EO 12898 requires:

- The development of **agency-specific environmental justice strategies**. Thus, agencies have developed and should periodically revise their strategies providing guidance concerning the types of programs, policies, and activities that may, or historically have, raised environmental justice concerns at the particular agency. These guidances may suggest possible approaches to addressing such concerns in the agency's NEPA analyses, as appropriate.
- The recognition of **importance of research, data collection, and analysis**, particularly with respect to multiple and cumulative exposures to environmental hazards for low-income populations, minority populations, and Indian tribes. Thus, data on these exposure issues should be incorporated into NEPA analyses as appropriate.



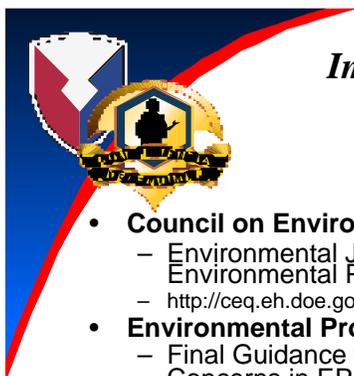
EO 12898 requires (cont.):

- Agencies to **collect, maintain, and analyze information on patterns of subsistence consumption of fish, vegetation, or wildlife**. Where an agency action may affect fish, vegetation, or wildlife, that agency action may also affect subsistence patterns of consumption and indicate the potential for disproportionately high and adverse human health or environmental effects on low-income populations, minority populations, and Indian tribes.
- The Executive Order requires agencies to work to **ensure effective public participation and access to information**. Thus, within its NEPA process and through other appropriate mechanisms, each Federal agency shall, "wherever practicable and appropriate, translate crucial public documents, notices and hearings, relating to human health or the environment for limited English speaking populations." In addition, each agency should work to "ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public."



EO 12898 does not :

- Create any right, benefit or trust responsibility, substantive or procedural enforceable at law or equity by a party against the United States, its agencies, its officers or any person.
- Preclude a proposed agency action from going forward, nor does it necessarily compel a conclusion that a proposed action is environmentally unsatisfactory when there is the identification of a disproportionately high and adverse human health or environmental effect on a low-income population, minority population, or Indian tribe under NEPA. Rather, the identification of such an effect should heighten agency attention to alternatives (including alternative sites), mitigation strategies, monitoring needs, and preferences expressed by the affected community or population.



Implementation of EO 12898 by Federal Agencies

- **Council on Environmental Quality (CEQ)**
 - Environmental Justice Guidance under the National Environmental Policy Act - December 10, 1997.
 - <http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf>
- **Environmental Protection Agency (EPA)**
 - Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analysis - April 1998
 - <http://es.epa.gov/oeca/ofa/ejepa.html>
- **Department of Defense**
 - Strategy on Environmental Justice - March 24, 1995
 - <https://www.denix.osd.mil/denix/Public/Library/Planning/Justice/note7.html>
- **Department of Army**
 - Still Draft - September 24, 1999
 - Proponent: Assistant Secretary of the Army for Installations and Environmental (ASA (I&E)) – Mr. Raymond Fatz



NEPA Approach to Decision-Making

- Identify need or situation
- Propose course of action
- Identify all reasonable alternatives (including no action)
- Describe the affected environment
- Analyze anticipated impacts and effects of all reasonable alternatives
- Involve the Public
- Select course of action
- Document final decision



Basic EJ Questions

- What geographic area(s) may be impacted by the federal action?
 - Distribution and magnitude of impacts
 - What area of consideration is going to be required by other state and federal law - i.e., CAA
 - Does the area change when considering cumulative effects from other actions
- Who is (are) the potentially affected population(s) and what are the potentially impacted resources?
 - Consider the composition of the affected area, to determine whether minority populations, low-income populations, or Indian tribes are present in the area affected by the federal action
 - Recognize impacts within minority populations, low-income populations, or Indian tribes may be different from impacts on the general population due to a community's distinct cultural practices. For example, data on different patterns of living, such as subsistence fish, vegetation, or wildlife consumption and the use of well water in rural communities may be relevant to the analysis.



Basic EJ Questions (cont.)

- How is the affected public being engaged?
 - Develop effective public participation strategies that acknowledge and seek to overcome linguistic, cultural, institutional, geographic, and other barriers to meaningful participation, and incorporate active outreach to affected groups.
 - Are there any significant environmental or human health impacts, including interrelated social, cultural or economic effects?
 - Where a federal action would not cause any adverse environmental impacts, and therefore would not cause any disproportionately high and adverse human health or environmental impacts, specific demographic analysis may not be warranted.



Basic EJ Questions (cont.)

- Are the environmental or human health effects likely to impact low-income and/or minority communities more than the community-at-large?
- When a disproportionately high and adverse human health or environmental effect on low-income populations, minority populations, or Indian tribes has been identified, the distribution as well as the magnitude of the disproportionate impacts in these communities should be a factor in determining the environmentally preferable alternative. In weighing this factor, the agency should consider the views it has received from the affected communities, and the magnitude of environmental impacts associated with alternatives that have a less disproportionate and adverse effect on low-income populations, minority populations, or Indian tribes.
- Where environments of Indian tribes may be affected, agencies must consider pertinent treaty, statutory, or executive order rights and consult with tribal governments in a manner consistent with the government-to-government relationship.
- What mitigation measures are available to avoid or minimize effects from the proposed action or identified alternative?



What's Needed for an EJ Strategy?

- **Understand the Community**
 - respect local perspectives
 - listen to local issues and concerns
 - understand special circumstances and/or sensitivities
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- **Understand the Impacts and Effects on the Community**
 - consider direct and indirect human health or environmental effects, including interrelated social, cultural and economic effects
 - identify and assess multiple exposures and cumulative effects
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What's Needed for an EJ Strategy ? (cont.)

- **Understand the Importance of Communication and Relationships**
 - communicate early and often with the community
 - create opportunities to involve the impacted community in planning, analysis and decision-making processes in a meaningful way
 - provide access to information on the proposed action and alternatives, including information on potential impacts
 - engage the impacted community in the identification of potential effects and the development of mitigation strategies for the proposed action and alternatives
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What we can do

- Assess the impacts of installations operations and activities on local communities through periodic updates to installation master plans
- Ensure that integrated natural resources management plans (INRMPs) address risks associated with the consumption of well water, fish, wildlife and other natural resources possibly impacted by Army activities
- Report progress annually through the Installation Status Report (ISR), Environmental Quality Report (EQR), and other reports, to the Headquarters, Department of the Army, Environmental Quality Control Committee
- Provide public access to reports about environmental justice concerns. As needed, program managers should request assistance with publicity for these reports from their Public Affairs Office.
- Involve minority and low-income populations in planning and decision-making processes (e.g., RABs). Whenever appropriate, provide translation.



Who needs to be involved

- Key Players
 - Environmental Office
 - Public Works
 - Public Affairs
 - Legal



EJ References

- Army Regulation 200-2 , Analysis of Environmental Effects from Army Actions (New version due to be published any day)
- CEQ (1997), Environmental Justice Guidance Under the National Environmental Policy Act; USEPA (1998), Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analysis
- Considering Environmental Justice in Federal Planning, Analysis and Decision Making, Recommended Guidance for Implementing Executive Order 12898, "Federal Actions to Address Environmental Justice", David Stone Eady, Eady & Associates, LLC
- Department of Defense Strategy on Environmental Justice, March 24, 1995
- EPA Website <http://es.epa.gov/oeca/main/ej/index.html>
- Executive Order 12898
- 1998 Environmental Justice Biennial Report: Working Towards Collaborative Problem-Solving, Chapter 5, June 1999 <http://es.epa.gov/oeca/main/ej/98biennial.pdf>

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