



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

February 26, 1997

THE ADMINISTRATOR

MEMORANDUM FOR THE VICE PRESIDENT  
ERSKINE BOWLES, CHIEF OF STAFF

**Subject: Reorganization of EPA Offices**

On Thursday, February 27, 1997, I plan to announce a restructuring to create three new offices at the Environmental Protection Agency (EPA). These changes will build upon the themes we have been pursuing during the Clinton Administration, and enhance our ability to accomplish several major objectives. The changes will: strengthen and consolidate EPA's reinvention efforts; help us provide better information and ease access to allow communities to make better decisions themselves; and enhance EPA's ability to assure the protection of children from significant environmental health threats. The changes include:

- **Creation of a new Office of Reinvention headed by an Associate Administrator.** In order to ensure that we continue to meet the commitments presented in the March 1995 Report, *Reinventing Environmental Regulation*, issued by the President and the Vice President, and to apply the lessons of these high-priority reinvention efforts more broadly, we are drawing together the agency's major reinvention efforts in a single office. This will also create a primary point of contact for industry's efforts to find flexible and innovative approaches that still guarantee public health and environmental protections. I am pleased that Chuck Fox, formerly Maryland's Assistant Secretary of the Environment, will direct these efforts.
- **Creation of a new Office of Children's Health Protection within the Office of the Administrator.** In order to honor the commitments in our widely-praised September 1996 Report, *Environmental Health Threats to Children*, we are creating a single point of responsibility and coordination of these efforts within the Administrator's Office. I am pleased that Dr. Philip Landrigan, Chair of the Department of Community Medicine at the Mount Sinai Medical School, has agreed to direct these efforts. Dr. Landrigan recently served on the President's Advisory Committee on Gulf War Veterans' Illnesses and is a renowned expert in pediatric environmental health. He will coordinate procedures for rulemaking efforts affecting children throughout EPA's work, work to develop sound science to better understand the unique susceptibilities facing children, and work with families, the medical health community, and others to provide improved information on child-specific risks to families.



Recycled/Recyclable  
Printed with Soy/Canola Ink on paper that  
contains at least 50% recycled fiber

- **Creation of a new Center for Environmental Information and Statistics.** In order to insure that by January 1, 1998, the public will have ready access to EPA's extensive statistical data, we are consolidating our information assessment and access activities in a single office. This will assist in providing communities with important information about the state of their health and the environment to foster informed local decision making, as called for by the President in his Kalamazoo announcement last August. It will allow us to support new and flexible approaches to environmental regulation by developing new means to measure performance and assess our progress in protecting public health and the environment. The new Center will coordinate information policy across the Agency to ensure the consistency of our efforts and work with the regulated community, community organizations, and state and local governments to provide a strategic focus for EPA's statistical data.
- **Consolidation of our governmental relations functions.** In order to serve better EPA's many customers, we are streamlining our outreach and service efforts for Congress and state and local governments. These activities will now be served by a single Office of Intergovernmental Relations, replacing our existing Office of Congressional and Legislative Affairs and our existing Office of Regional Operations and State and Local Relations.

I am confident that these organizational changes will enhance our ability to deliver upon key Clinton Administration initiatives undertaken by EPA, and will insure that they become even further ingrained in EPA's day-to-day activities. These changes will strengthen EPA's ability to serve the American people for many years to come.



Carol M. Browner

cc. Franklin D. Raines  
Don Baer  
Marcia Hale  
Kitty Higgins  
Ron Klain  
Thurgood Marshall, Jr.  
Sylvia Matthews  
Katie McGinty  
John Podesta  
Victoria Radd  
Bruce Reed  
Gene Sperling  
Elaine Kamarck



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

Bruce Reed

MEMORANDUM

TO: LEON PANETTA  
ERSKINE BOWLES  
GENE SPERLING  
DAN TARULLO  
~~CAROL RASCO~~  
KATIE MCGINTY  
JACK GIBBONS  
MICHAEL McCURRY  
KITTY HIGGINS

CC: SALLY KATZEN

THROUGH: FRANK RAINES 

FROM: T.J. GLAUTHIER

DATE: JANUARY 3, 1997

RE: EPA RELEASE OF DRAFT GOALS REPORT

This is to alert you that around the middle of the month, EPA will be sending a draft report out for comment to representatives of state and other governmental environmental agencies. The draft report, *Environmental Goals for America With Milestones for 2005*, is a compilation of broad goals and milestones for progress on the whole range of environmental programs, including clean air, water, drinking water, site cleanup, toxic chemicals, and international subjects such as ozone depletion, acid rain, and global warming.

Naturally, once the draft report has been released to this group, it will essentially be a public document and may get media attention. In fact, it has already been covered in BNA's Daily Environment Report and Daily Report for Executives. It is reasonable to expect that there will be criticism from both sides -- from some, that this indicates that the Clinton Administration intends to go too far to regulate industry and the public, while from others, that this is not strong enough.

For example, an area where we might be criticized for going too far is the clean water goal of achieving an annual net increase of at least 100,000 acres of wetlands by 2005. On the other hand, we might be criticized for not being bold enough in the hazardous waste area where we set out a goal of cleaning up at least 10 percent of contaminated federal lands by 2005.

It is important to emphasize that this is a *draft* report that is being sent out for the purpose of soliciting comments on just how appropriate these goals are. In fact, this is a *pre-release* of the report to state and other governmental officials, to get comments that could lead to some modifications before later releasing it as a draft report to the public for even broader review and comment (an earlier version went through a public comment process in 1994-95). This report is part of the Administration's overall effort to develop strategic plans under the Government Performance and Results Act of 1993, and our attempt to shift our focus away from process and toward measurable environmental results.

Fourteen relevant federal agencies and all of the White House policy offices have reviewed the draft report over the past six months. Their comments have either been reflected in revisions to the draft, or are included in an appendix of issues to be resolved in later rounds. Attached for your information is a copy of the transmittal letter and a summary listing of the goals and milestones that are contained in the report. The report itself is approximately 200 pages long.

Dear Colleague:

I take great pleasure in sending you EPA's draft *Environmental Goals for America With Milestones for 2005*. We are inviting you and other top officials in interested government agencies throughout the country to review it and provide comments that will help us further shape the report before sending it out for public review. We are sending it to you now, before it is a finished document, to get your input.

This is EPA's first-ever proposal for national environmental goals. These goals encompass the primary areas of responsibility that EPA shares with other federal agencies, states, tribes, local government, private organizations, and all citizens. The milestones are especially innovative in that most of them are cast in terms of measurable environmental outcomes. Measurable outcomes will help EPA and other government agencies at all levels become less prescriptive in how the work is done and more attentive to actual environmental results. They also focus attention on how ambitious the nation should be in different areas of environmental protection.

We would like to use these goals in two important ways. First, we hope they will help improve the public understanding and discussion of environmental problems, policies and programs. Second, we have used these draft goals as our starting point for developing EPA's strategic planning goals as a key initial step in our new Planning, Budget, and Accountability effort (which has as one of its major purposes compliance with the Government Performance and Results Act of 1993). EPA will send you materials separately in several months concerning opportunities for involvement in that effort. We hope that when this document is finished you will embrace it and find it as useful for your purposes as we hope it will be for ours.

EPA has been developing these goals over the past four years. You or people on your staff may have contributed to the 1994 roundtables on environmental goals and commented on a February 1995 draft of the report. The current draft responds to suggestions for improving the earlier version. It now includes more information on each environmental problem and government responsibilities and approaches to achieving the milestones. The goals and milestones have been refined. This draft also includes many changes suggested in an initial review this summer by federal agencies. We are still following up on a number of these recommendations. A summary of issues raised by the federal agencies that we are continuing to address is in Appendix D.

There are several questions that we hope you will keep in mind as you review this document:

- o Is the information presented here a good starting point for public discussions about environmental goals? If it is not, what could we do to improve it? Do we include enough information about each milestone while keeping the document to a manageable size?
- o Are these the right goals? Are they complete and well-stated? From the perspective of criteria that are important to you, are the milestones realistic and yet sufficiently ambitious? Should they be targeted to some broader or narrower set of priorities?
- o Do the milestones use the best available national-level environmental improvement indicators? Do you have specific suggestions for improving national data necessary to monitor progress?
- o Do you have data or suggestions that will help us develop estimates of the benefits and costs of attaining the goals and milestones?

- o Are the proposed strategies clear and do they make sense to you?
- o Do you have comments on the issues raised by federal agencies that we are continuing to address, listed in Appendix D?
- o Are there other ways we can improve this document to make it more useful to you?

We encourage you to share this draft with your colleagues in your state's natural resource, economic development, transportation and other relevant state agencies. We welcome comments from them. We hope that the final goals, which we expect to complete next year, will be useful to you in developing or refining your own environmental goals. State offices receiving copies of this report directly from us are listed in an enclosure.

Your EPA regional office will be contacting you shortly to discuss this report with you. We would like to receive any written comments you may have by February 28, 1996, or earlier if possible. Please send your comments to your EPA Regional Administrator (address enclosed) and to Langdon Marsh, Director of the Oregon Department of Environmental Quality, who will summarize comments on behalf of the Environmental Council of the States. Mr. Marsh's Oregon DEQ address is: 811 Southwest Sixth Avenue, Portland, Oregon 97204-1334 (tel: 503-229-5301 and fax: 503-229-5850).

If you have any questions about the report, please contact Peter Truitt, Goals Project Manager, U.S. EPA, Office of Strategic Planning and Environmental Data (Mail Code 2161), 401 M Street, S.W., Washington, DC 20460; (tel 202-260-8214 and fax: 202-260-4903).

While the report is undergoing this government review, we ask you not to release it to the public. Once we have incorporated government comments, we will be seeking public comments.

Thank you for your help on this important project.

Sincerely,

David Gardiner  
Assistant Administrator

**Enclosures:**

- (1) Environmental Goals for America With Milestones for 2005
- (2) List of State Officials Receiving This Document
- (3) EPA Regional Administrators

**EPA'S PROPOSED NATIONAL ENVIRONMENTAL GOALS AND MILESTONES**  
**DECEMBER 3, 1996**

**CLEAN AIR**

**Long-Range Goal:** Every American city and community will be free of air pollutants at levels that cause significant risk of cancer or respiratory and other health problems. The air will be clearer in many areas, and life in damaged forests and polluted waters will rebound as acid rain, ozone, and hazardous air pollutants are reduced.

- M1. By 2005, the number of cities where air quality does not meet national standards will be reduced more than 96 percent from 1995 levels, thereby making the air safer to breathe for an additional 85 million Americans in 164 metropolitan areas.
- M2. By 2005, emissions of unhealthy smog-causing volatile organic compounds will fall 68 percent per mile per car, compared to 1990 levels.
- M3. By 2005, increases in miles driven by U.S. vehicles will not interfere with attainment or maintenance of air or water quality standards, nor will increases in driving interfere with fulfillment of the U.S. commitment to reduce greenhouse gas emissions.
- M4. By 2005, all 174 categories of major industrial facilities will meet toxic air emission standards.
- M5. By 2005, sulfur dioxide emissions, a primary cause of acid rain, will be reduced by nearly 10 million tons from 1980 levels.
- M6. By 2005, annual average visibility in the eastern United States will improve 10 to 30 percent from 1995 levels.

**CLEAN WATERS**

**Long-Range Goal:** All of America's rivers, lakes, and coastal waters will support healthy communities of fish, plants, and other aquatic life and uses such as fishing, swimming, and drinking water supply for people. Wetlands will be protected and rehabilitated to provide wildlife habitat, reduce floods, and improve water quality. Ground waters will be cleaner for drinking and other beneficial uses.

- M1. By 2005, there will be an annual net increase of at least 100,000 acres of wetlands, thereby supporting valuable aquatic life, improving water quality, and moderating the effects of health- and property-damaging floods and drought.
- M2. By 2005, 80 percent of the nation's surface waters will support healthy aquatic communities.

- M3. By 2005, 90 to 98 percent of the nation's fish and shellfish harvest areas will provide food safe for people and wildlife to eat.
- M4. By 2005, 95 percent of the nation's surface waters will be safe for recreation.
- M5. By 2005, the number of Americans served by community and rural water wells containing high concentrations of nitrate, which can cause illness, will be reduced.
- M6. By 2005, the annual rate of soil erosion from croplands will be reduced 20 percent from 1992 levels to a total of 948 million tons per year.
- M7. By 2005, total annual pollutant discharges from key point sources that threaten public health and aquatic ecosystems will be reduced by 3 billion pounds.

#### **HEALTHY TERRESTRIAL ECOSYSTEMS**

**Long-Range Goal:** America will safeguard its ecosystems to promote the health and diversity of natural and human communities and to sustain America's environmental, social, and economic potential.

- M1. By 2005, the loss of ecosystem types considered critically endangered, endangered, or threatened will be eliminated.
- M2. By 2005, the populations of endangered, threatened, rare, and declining species of native terrestrial animals and plants will be stabilized or increased.
- M3. By 2005, ecosystem conditions and functions will be restored to ultimately provide adequate amounts of habitat with the necessary size, mixture, and quality to sustain native animals and plants in all regions.

#### **SAFE DRINKING WATER**

**Long-Range Goal:** Every American public water system will provide water that is consistently safe to drink.

- M1. By 2005, the population served by community water systems in violation of health-based requirements will be reduced from 19 to 5 percent.
- M2. By 2005, every person served by a public water system that draws from an inadequately protected river, lake, or reservoir will receive drinking water that is adequately filtered.
- M3. By 2005, 90 percent of the nation's river and stream miles and lake and reservoir acres that are designated as drinking water supplies will provide water that is safe to use after treatment.

- M4. By 2005, 60 percent of the population served by community water systems will receive their water from systems with source water protection programs in place.

### **SAFE FOOD**

**Long-Range Goal:** The foods Americans consume will continue to be safe for all people to eat.

- M1. Through 2005, the frequency of illegal pesticide residues in food will remain at or below the current low level.
- M2. By 2005, there will be a significant reduction in the use of the food production pesticides that have the highest potential to cause cancer.
- M3. By 2005, all pesticide residues in food will meet the statutory standard of "reasonable certainty of no harm."

### **SAFE HOMES, SCHOOLS, AND WORKPLACES**

**Long-Range Goal:** All Americans will live, learn, and work in safe and healthy environments.

- M1. By 2005, the number of young children with high levels of lead in their blood will be reduced by more than 50 percent compared to the late 1980s.
- M2. By 2005, 27 million homes will have been voluntarily tested for radon, corrective action will have been taken in 1 million homes, and 1.5 million new homes will have been built with radon-resistant features, resulting in a 25 percent reduction from 1985 levels in the number of Americans exposed to elevated radon in their homes.
- M3. By 2005, children's exposure to environmental tobacco smoke will decrease through voluntary actions in the home. The proportion of households in which children 6 and younger are regularly exposed to smoking will be reduced to 15 percent from over 39 percent in 1986.
- M4. By 2005, the number of workers suffering adverse health effects caused by acute poisoning from pesticides will be reduced significantly from 1992 levels.
- M5. By 2005, the use of safe agricultural biopesticides will double from 1995 levels.
- M6. By 2005, the number of existing industrial high-production-volume chemicals shown to be used safely in the workplace will nearly triple.
- M7. By 2005, worker protection will be promoted for as many as 10,000 new chemicals.

## **TOXIC-FREE COMMUNITIES**

**Long-Range Goal:** By relying on pollution prevention, reuse, and recycling in the way we produce and consume materials, all Americans will live in communities free of toxic impacts.

- M1. By 2005, industrial facilities will reduce by 25 percent (from 1992 levels) the quantities of the toxic chemicals in waste streams that are released, disposed of, treated, or combusted for energy recovery. Half of this reduction will be achieved through pollution prevention practices.
- M2. By 2005, more than 99 percent of new chemicals approved since 1995 will have been used safely and will not require additional controls.
- M3. By 2005, the number of existing high-production-volume chemicals shown to be used safely will nearly triple.
- M4. By 2005, municipal solid waste will be recovered for recycling or composting at a rate of 35 percent. Municipal solid waste generation will be reduced to the 1990 level of 4.3 pounds per person per day, with the amount of waste combusted or landfilled decreasing to 2.8 pounds per person per day.
- M5. By 2005, the presence of the most persistent, bioaccumulative, and toxic constituents in hazardous waste will be reduced by 50 percent from 1991 levels.

## **PREVENTING ACCIDENTAL RELEASES**

**Long-Range Goal:** Accidental releases of substances that endanger our communities and the natural environment will be reduced to as near zero as possible. Those which do occur will cause only negligible harm to people, animals, and plants.

- M1. By 2005, there will be 25 percent fewer accidental releases of oil, chemicals, and radioactive substances than in 1993.
- M2. By 2005, there will be a 50 percent increase over 1993 levels in the number of industrial facilities in high-risk areas that have either eliminated hazardous substance inventories or reduced them to minimum levels.

## **SAFE WASTE MANAGEMENT**

**Long-Range Goal:** Wastes produced by every person, business, and unit of government in America will be stored, treated, and disposed of in ways that prevent harm to people and other living things.

- M1. By 2005, chlorinated dioxin/furan emissions from waste-burning facilities will be

reduced 98 percent from 1994 levels.

- M2. By 2005, emissions of mercury and other harmful pollutants from waste-burning facilities will be reduced by at least 80 percent from 1994 levels.
- M3. By 2005, the annual number of confirmed releases from underground storage tanks will be 80 percent lower than in 1994.
- M4. By 2005, wellhead protection areas and vulnerable ground waters will no longer receive industrial wastewater discharges from septic systems.
- M5. By 2005, 10 percent of the amount of spent nuclear fuel, high-level waste, and transuranic radioactive waste currently stored across the nation will be disposed of in accordance with EPA disposal standards.

#### **RESTORATION OF CONTAMINATED SITES**

**Long-Range Goal:** Places in America currently contaminated by hazardous or radioactive materials will not endanger public health or the natural environment and will be restored to uses desired by surrounding communities.

- M1. By 2005, long-term health threats will be eliminated and cleanup will be completed at 95 percent of the 1,212 non-federal facility contaminated sites on the 1995 Superfund National Priorities List.
- M2. By 2005, immediate health threats will be eliminated and long-term cleanup will be under way at 85 percent of the estimated 3,200 Superfund sites (NPL and non-NPL) expected to require cleanup.
- M3. By 2005, at least 10 percent of contaminated federal lands currently on the National Priorities List will be cleaned up.
- M4. By 2005, stabilization to prevent the spread of contamination will be under way or completed at 100 percent of operating industrial waste facilities where people have been exposed to contamination. Seventy-five percent of all facilities estimated to require cleanup will be stabilized.
- M5. By 2005, cleanups will be completed at 200,000 leaking underground storage tank sites -- double the 1994 figure.
- M6. By 2005, radioactivity will be cleaned up or contained at 6 percent of sites contaminated by radioactivity.
- M7. By 2005, point sources of contamination will be controlled in 10 percent of the watersheds where sediment contamination has currently been determined to be

widespread.

## **REDUCING GLOBAL AND TRANSBOUNDARY ENVIRONMENTAL RISKS**

**Long-Range Goal:** The United States and other nations will eliminate significant risks to human health and ecosystems arising from climate change, stratospheric ozone depletion, and other environmental problems of concern at the transboundary and global level.

- M1. By 2005 and beyond, U.S. greenhouse gas emissions will be reduced to levels consistent with international commitments agreed upon under the Framework Convention on Climate Change, building on initial efforts under the Climate Change Action Plan.
- M2. By 2005, ozone concentrations in the stratosphere will have stopped declining and will have slowly begun the process of recovery.
- M3. By 2005, atmospheric concentrations of the ozone-depleting substances CFC-11 and CFC-12 will peak at no more than 332.4 and 572.3 parts per trillion, respectively.
- M4. Through 2005, with the exception of HCFCs and very limited "essential uses," there will be no U.S. production of ozone-depleting substances.
- M5. By 2005, cooperative efforts between the United States and other countries will restrict the net loss of coral ecosystems to no more than 20 percent of the world's current reef area.
- M6. By 2005, the United States and other countries will reduce the risks to human health and the environment associated with aldrin, chlordane, dieldrin, DDT, endrin, heptachlor, toxaphene, hexachlorobenzene, mirex, PCBs, and chlorinated dioxins and furans.
- M7. By 2005, global air emissions of mercury will be reduced, in part through a 50 percent reduction from 1990 levels in the United States.
- M8. By 2005, with U.S. leadership and cooperation, many nations will have phased out the use of lead in gasoline, and worldwide use of lead in gasoline will be below 1993 levels.
- M9. By 2005, all seven nonattainment areas along the United States/ Mexico border will have met ambient air quality health standards for particulate matter, sulfur dioxide, carbon monoxide, and ozone during the preceding 4 years.
- M10. By 2005, the United States and Canada will reduce sulfur dioxide and nitrogen oxide emissions that cause acid rain. U.S. sulfur dioxide emissions will be reduced by nearly 10 million tons and nitrogen oxide emissions by more than 2 million tons from 1980 levels.
- M11. By 2005, existing sources of high-level radioactivity in northwest Russia with the potential for near-term release into the arctic environment will be reduced by 25 percent.

**EMPOWERING PEOPLE WITH INFORMATION AND EDUCATION AND EXPANDING THEIR RIGHT TO KNOW**

**Long-Range Goal:** Americans will be empowered to make informed environmental decisions and participate in setting local and national priorities.

- M1. By 2005, current, accurate, and easily accessible information on the environmental conditions will be available for at least 75 of the largest metropolitan areas.
- M2. By 2005, the public's right to know what materials are released in their communities will be more fully addressed by the collection and publication of more comprehensive measures of the pollution sources.
- M3. By 2005, Americans will have improved environmental information about the products and chemicals they use, including data on toxic effects such as hormonal, reproductive, growth, and developmental risks.
- M4. By 2005, more information on environmental programs will be publicly available, including one-stop access to and reporting of this information. EPA will make 90 percent of its databases with raw environmental data and 100 percent of its major reports, policy statements, and *Federal Register* notices available electronically.
- M5. By 2005, there will be substantial growth in the number and quality of environmental education programs in schools, colleges, and communities.
- M6. By 2005, nations will be better able to share information on the transport of pollutants and the movement of hazardous and toxic materials across borders.

File  
EPA

May 26, 1993

MEMORANDUM FOR BRUCE REED

FROM: STEPHEN WARNATH<sup>sw</sup>

SUBJECT: Proposed Environmental Justice Executive Order

=====

You have asked for my thoughts about the proposed environmental justice executive order. My initial impressions are as follows:

Is There A Problem To Address Through Executive Action?

Evidence exists that there is a need to address civil rights problems in cleaning up the environment. Apparently there are problems in a number of federal government practices, but the most prominent problem in past administrations appears to have been with the EPA's enforcement practices. A report by the National Law Journal on the subject of environmental justice prior to President Clinton's election found, inter alia:

- Penalties under hazardous waste laws at sites having the greatest white population were about 500 percent higher than penalties at sites with the greatest minority population, averaging \$335,566 for the white areas, compared to \$55,318 for minority areas. (This figure, however, includes court decisions. If EPA-settled cases alone are considered, the figure is 146 percent higher for white communities -- still a significant disparity.)
- For all federal environmental laws aimed at protecting citizens from air, water and waste pollution, penalties in white communities were 46 percent higher than in minority communities.
- Under the Superfund cleanup program, abandoned hazardous waste sites in minority areas take 20 percent longer to be placed on the national priority action list than those in white areas.
- In more than half of the 10 regions that administer EPA programs around the country,

action on cleanup at Superfund sites began from 12 percent to 42 percent later at minority sites than at white sites.

- At the minority sites, the EPA chose "containment," the capping or walling off of a hazardous dump site, 7 percent more frequently than the cleanup method preferred under the law, permanent "treatment," to eliminate the waste or rid it of its toxins. At white sites, the EPA ordered treatment 22 percent more often than containment.

The findings of this report constitute prima facie evidence that there is a significant problem that must be confronted. EPA's circulation of this draft indicates that they think so too and are ready to do something about it.

In addition to government practices, the proposal also is directed at discriminatory practices in the private sector. As I read it, it calls on agencies to prohibit private companies (e.g. contractors) from discriminating in the operation of environmental programs or activities supported by federal assistance (as required by the Civil Rights Act of 1964). I would be interested in more detail about the range of problems which this section of the draft seeks to solve. I would have thought that agencies should have already addressed this in their effort to comply with existing civil rights law, so we might ask EPA for examples of how these problems arise. The answer to this may suggest a directive more specifically tailored to the problem.

#### Will This Proposed Executive Action Address The Problem?

The Order would set the course for agencies in the Clinton administration to redress the failings of previous administrations in this area. Making it work will require follow-up to ensure that the agencies do what the Order requires. On the other hand, EPA certainly has it within its power to take care of any inequitable practices in its own shop without this Executive Order and, frankly, steps to reform any deficient enforcement practices should already have been initiated by the EPA.

The Executive Order does go beyond what EPA can do on its own by directing agencies throughout the Federal government to focus on the problem, to initiate corrective action and to establish a Council headed by the EPA to coordinate those measures.

## Legal Authority

The President has the authority -- both statutory and Constitutional -- to issue this Executive Order. His Constitutional responsibility to ensure that the laws are faithfully executed alone would provide sufficient authority. As you know, there is something of a tradition of using executive orders to tackle certain civil rights problems.

Establishing interagency councils is also frequently accomplished by executive order. The only potential problem here has to do with the level of authority envisioned for the Council. For example, is the Order intended to give the Council some decisionmaking authority (in contrast to only serving a coordinating and advisory function) over civil rights concerns in environmental activities of independent agencies? Or of the military? I think any potential problems here will be drawn into focus as we send the draft out to the agencies for comments and get a better sense of the range of activities that arguably fall under the dictates of the proposed Order. Obviously, I think that the final draft may need to clarify some of the present language describing the Council's mission, i.e. to "implement agreements, policies and practices . . . [to] eliminate . . . conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government . . . ." (emphasis added)

## Comments

1) You have already edited out one possible language problem in the draft by changing "equal" environmental protection to "strong" environmental protection. The attached article indicates that the Bush Administration was viewed as using the term "environmental equity" as a euphemism for something less than aggressive enforcement of environmental laws in minority communities.

2) Putting the EPA as the head of the interagency council arguably falls squarely within the responsibilities of the EPA. On the other hand, there is the possibility that other agencies will be wary of this. As the proposal indicates, other agencies have overlapping jurisdictions on some environmental matters. This draft gives the Council the authority to coordinate or resolve interagency issues including jurisdictional matters. I think that the most helpful thing that we can do is to distribute the draft to the agencies for comments to see if there would be an unintended or undesirable problem in utilizing this mechanism to resolve these issues. For example, the Justice Department might be concerned about how this might effect the activities of its Environment and Natural Resources Division. Also, as I mentioned above, it would also be more problematic to give the

EPA -- or the Council -- decisionmaking authority over activities of the independent agencies.

3) The Order requires agencies to apply necessary resources -- e.g. budgetary and personnel -- to achieve the requirements stated in the Order. You know better than I do what constraints there may be in mandating this.

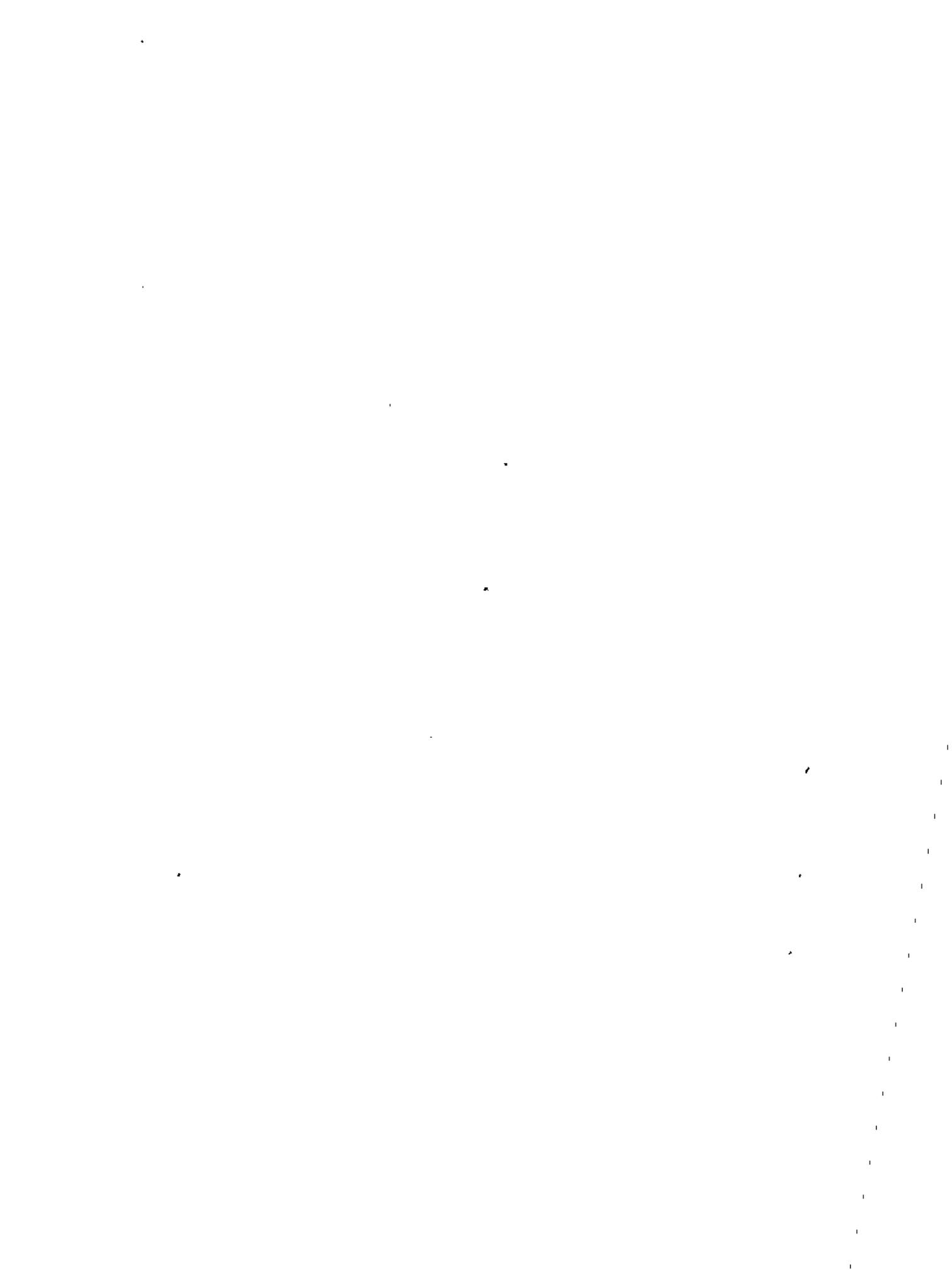
4) A provision should probably be added stating that the Executive Order does not create a private right of action.

5) We may hear back from some agencies that the language "or actions that impact the environment" is so broad as to render it unduly burdensome or meaningless.

I have attached a draft of the Executive Order containing some modest revisions. I think that there are ways to improve this revised draft and that some other helpful changes will result from comments from other impacted agencies.

Attachments:

- National Law Review article
- Initial EPA draft
- Revised draft



THE EPA AND RACE

An Agency Criticized

# Residents Want 'Justice,' The EPA Offers 'Equity'

By MARIANNE LAVELLE  
National Law Journal Staff Reporter

WASHINGTON — If minority environmental leaders could pick one symbol of their deep frustration with the federal government, it would be how the Environmental Protection Agency has answered their fiery cry for "justice" with a bureaucratic proposal for "equity."

"Environmental justice" means we'd like to see no community impacted by hazardous pollution, says Charles Lee, director of the United Church of Christ's Special Project on Toxic Justice. "If you say the word 'equity,' it sounds that if we all share the problem, it's OK."

The EPA says there is no such notion behind its choice of words: "The agency's standpoint on this is to reduce risk for everyone," says Warren A. Banks, assistant to EPA Administrator William K. Reilly. He says the EPA made a long stride toward that goal by publishing on July 22 a long-awaited report, by creating a separate Office of Environmental Equity and by beginning studies around the country on pollution, race and poverty.

But disappointment pervades the small circle of lawyers, church leaders, sociologists and environmentalists who have been working in minority communities hounded by waste. "There is no acknowledgement of the

problem; there is no analysis of what is causing the problem and an inadequate analysis of how to address the problem," said Richard Moore of New Mexico's Southwest Network, in one of the critical comments letters attached to the EPA's report.

The story of the EPA's attempt to grapple with the emerging environmental civil rights issue has been played out largely behind the scenes in the past two years. EPA Administrator Reilly's most public boasts during that same period have been with the office of Vice President Dan Quayle, who killed EPA proposals for the U.N. Earth Summit and for Clean Air Act implementation as harmful to American business.

But outside government, a group of community leaders had begun to coalesce with a quite different set of criticisms against the agency. The pollution of a whole swath of industrial America had been ignored by federal regulators, the group charged, because it occurred in the nation's most neglected areas — near the homes of minorities and the poor.

Activists Forge Agenda

It was not a new idea for the EPA. In fact, six months after the agency was created in 1971, the EPA's first administrator, William Ruckelshaus, faced questioning about whether the agency intended to apply to its mission the other great law arising from the 1960s

— the Civil Rights Act. In a hearing before the U.S. Civil Rights Commission in 1971, Mr. Ruckelshaus said the EPA was a "technical" and scientific agency, not equipped to judge disparate impacts on minority communities due to pollution.

Over the years, minorities within the agency began to agitate for the EPA to recognize how the nation's ecological hazards had shifted onto its "most powerless" communities. "EPA has been, and continues to be, either incapable or disinclined to face the racial implications of its policies," wrote two EPA lawyers, Arthur Wiley Ray and Arthur A. Varma, in a 1990 letter published by the newspaper of predominantly black Howard University in Washington, D.C.

That same year, environmental justice academics and activists gathered for the first time at the University of Michigan School of Natural Resources to hammer out an agenda. EPA Administrator Reilly met with the "Michigan Coalition" afterward, and in July 1990 ordered a workgroup to weigh the evidence and consider what the agency could do about inequities.

The group was to complete its work in a year, but the job took twice that time. Observers say the committee membership underwent several transformations, as the group first lacked scientific expertise, then lacked a balance of minorities. It was a disconcerting reminder of critics' charges that the EPA's minorities are clustered in jobs such as personnel and civil rights, outside the areas of substantive environmental law.

Meanwhile, some group members felt the committee was not soliciting the views of the community organizers that had first spurred Mr. Reilly to consider the question of environmental justice. They wrote an opinion letter to that effect attached to a draft of the report released in February of this year.

'Equity' Memo Leaked

But by far, the most contentious event occurred immediately after that draft was released. Rep. Henry Waxman, D-Calif., came forward with a confidential memo by EPA Asst. Administrator Lewis Crampton that had been leaked to him, outlining an agen-

Federal Programs: Large Mandate, Little Action

The EPA is not the only federal agency charged with protecting health due to environmental threats. Congress has spread this large responsibility throughout the government. But observers say little progress has been made in some of the key programs aimed at guarding minorities from hazards.

| Agency                                      | Responsibility  | Action  |
|---|---|---|
| Department of Housing and Urban Development | In 1971, Congress first ordered HUD to eliminate lead paint hazards "as far as practicable" in its 800,000 multi-family housing units.  | Twenty years later, HUD set up a special lead abatement office, and is scheduled to come up with a plan by the end of this year. The agency estimates 80 percent of its units still have lead problems.   |
| Department of Health and Human Services     | The agency made small grants to local health officials for lead screening. In 1980, Congress also ordered HUD to monitor state testing of all Medicaid-eligible children.   | There is no enforcement of the Medicaid mandate, and no record keeping to show how many children have been tested.  |
| Department of Labor                         | At the creation of the Occupational Safety and Health Administration in 1970, Congress ordered the agency to prescribe the use of labels or warnings in workplaces. Thirteen years later, OSHA first required that companies prepare information sheets on workplace chemicals. | There is only a 4 percent chance of inspection at the small, non-union shops that employ large numbers of Hispanics, shows a survey of Chicago chemical plants in Latino neighborhoods by the independent National Safe Workplace Institute. GAO's estimate of the penalty for those who do get caught: \$22. |
| Department of Defense                       | The department in 1984 established the Superfund Environmental Restoration Program. Forty percent of the 87 Defense Superfund sites have a minority population of higher than 25 percent living nearby, the Law Journal's investigation shows.                                  | Final decisions on a permanent remedy have been made at few defense sites and only 4 of the 34 sites with a high minority population.   |

cy publicity strategy for what he termed the "politically explosive" issue of environmental equity.

In the memo, Mr. Crampton said the EPA had to try "to win the recognition the agency deserves for its environmental equity... programs before the minority fairness issue reaches the 'flashpoint' — that stage in an emotionally charged public controversy when activist groups finally succeed in persuading the more influential mainstream groups (civil rights organizations, unions, churches) to take ill-advised actions. From what we've begun seeing in the news, this issue is reaching that point."

Representative Waxman said the memo "shows no appreciation of the serious environmental threats faced by minority communities."

Mr. Reilly disavowed the Crampton memo as "impugnant and regrettable" in a meeting with the original Michigan Coalition members and other environmental justice advocates in April, according to notes of the meeting prepared by EPA staff. He agreed to visit minority communities that have been struggling with environmental problems. And in July, the agency announced the creation of a new Office of Environmental Equity — to be funded with \$1 million borrowed from other areas of the EPA's budget. His agenda has not yet been established, but it may give grants to community cleanup programs and research.

Leaders of the environmental justice movement generally praise Mr. Reilly for his efforts, noting that he

has nothing to gain politically by taking up the issue in an administration with which he has been at loggerheads. But they fear Mr. Reilly's good intentions do not have the support within that administration or the agency to reap real change.

For example, lead is the one ill for which the EPA agrees there is hard evidence that blacks face more exposure than whites. The EPA has begun targeting waste against lead painters and working with other agencies to develop a nationwide plan for reducing lead paint exposure.

At the same time, the agency has opposed legislation (Democratic-sponsored) that would strengthen lead laws, and Vice-President Quayle's office overturned the EPA's decision in 1990 to ban the burning of lead batteries.

Activists similarly are disappointed with the EPA's response to the racial-by-biased environmental problem of fish consumption. The EPA's report notes that many studies indicate Native Americans, blacks and other minorities eat more fish than do whites, thus exposing them to higher levels of PCBs, dioxin and the other water pollutants that accumulate in the tissues of sea life. But the agency's standards on acceptable water pollution levels continue to be based upon the much lower fish consumption rate of adult white men.

EPA's 'Baby Steps'

The agency has begun to look for a different way of assessing such high

risks by small populations; it convened a meeting of federal scientists in August to take up that issue.

But minority activists say the EPA could cut risk now — for example, by addressing glioma release into the Pacific Northwest waters by the paper industry. In 1987, the agency convened a joint workgroup with industry to discuss this new-found problem; the dialogue continues five years later.

Frequent agreements with industry like this one, says Mr. Moore of Southwest Network, "involve EPA-brokered negotiation of power to distribute environmental risk, and these negotiations consistently exclude people of color groups." Mr. Reilly's assistant, Mr. Banks, says that advocates cannot expect change to come overnight, especially when so much more study needs to be done.

"By no means are we saying we're complacent," he says. "The equity report was a first step. It's just a component to the dialogue of environmental equity. Whether it gets positive or negative feedback, it's a matter of bringing attention to the issue and making sure it's a priority."

Environmental justice activist Prof. Robert Bullard, a sociologist at the University of California, Riverside, says he gives the agency some credit. "I think that they have taken some good first steps," he says. "But they are small baby steps. They are not giant steps. And imperiled communities can't wait 20 years for EPA to take small steps."

### A Clean Air Enforcement Gap

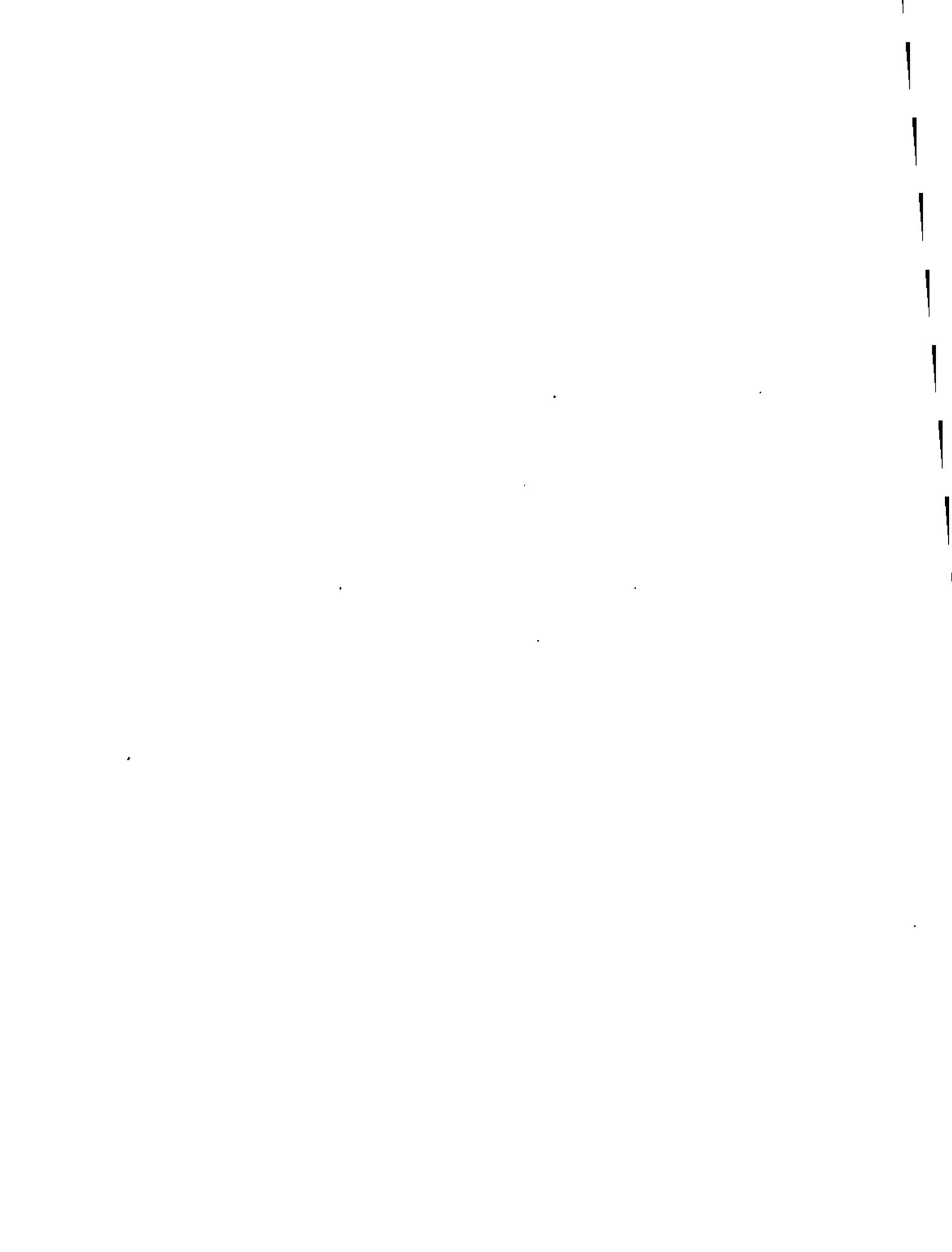
Population breakdown at sites where Clean Air Act cases were concluded, 1985-1992.

|            | White | Black | Hispanic |
|------------|-------|-------|----------|
| Population | 78.7% | 14.3% | 8.2%     |

Percentage of white, black, and Hispanic population in the United States living in areas that the EPA has designated as not meeting Clean Air Act standards, listed by pollutant.

|                    | White | Black | Hispanic |
|--------------------|-------|-------|----------|
| Particulate matter | 34.7% | 16.5% | 24.0%    |
| Carbon monoxide    | 23.8% | 46.0% | 37.1%    |
| Ozone              | 62.6% | 32.2% | 71.2%    |

Source: H.J. research and EPA report, "Environmental Equity: Reducing Risk for All Communities," based on study by Argonne National Laboratory presented at the June 1991 Environmental Equity Forum in Washington, D.C.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

Steve Warnam -  
What do you  
think of this?  
- BR

OFFICE OF  
THE ADMINISTRATOR

TO: Bruce Reed  
White House

FROM: Mike Vandenberg  
EPA

COMMENTS: This is a rough draft of the  
environmental justice executive  
order we discussed earlier.

Number of Pages to follow: 2

Date: 5/18

Time: 12:30 pm

Transmission Number: (202) 260-<sup>3684</sup>0279

Verification Number: (202) 260-<sup>7760</sup>4700

Office of the Administrator  
401 M Street, S.W.  
Room 1200 West Tower  
Mail Code: A-100

05/18/93 14:13  
5/17/93

DRAFT

### Proposed Executive Order on Environmental Justice

WHEREAS, all communities and all individuals across this nation are entitled to a safe and healthful environment that is protected on an equal basis through federal, state and local governments, and

WHEREAS, environmental hazards which have had a disproportionate impact on some communities must be managed and controlled so that all communities receive ~~equal~~ <sup>Strong</sup> environmental protection,

Now, Therefore, by virtue of the authority vested in me by the Constitution and laws of the United States, and as President of the United States, in order to further environmental objectives consistent with the Constitution and Civil Rights Acts and other laws of the United States, it is ordered as follows:

#### Section 1. Federal Agencies.

1-101. Federal agencies shall conform their environmental programs and activities, or actions that impact the environment, to the requirements of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination by applicants for, and recipients of, federal assistance in the operation of programs or activities receiving such assistance.

1-102. Federal agencies shall conduct their internal environmental programs and activities, or actions that impact the environment, (including but not limited to, regulatory and policy making activities; enforcement and compliance; data collection, analysis and management; education and outreach; communications; employment, and pollution prevention,) in a manner that provides ~~equal~~ <sup>Strong</sup> environmental protection for all populations without regard to race, color, national origin, or socioeconomic status.

#### Section 2. Definitions.

2-201. The definitions found in Title VI are incorporated into this Executive Order by reference.

2-202. Federal Agency - a federal agency is any executive department, military department or independent agency within the meaning of 5 USC 101, 102, 104(1), respectively.

### Section 3. Implementation.

3-301. Within six months of the signing of this Executive Order, each Federal Agency must promulgate regulations and/or implement policies that achieve the requirements of this order.

### Section 4. Applicability.

4-401. The head of each Federal Agency is responsible for ensuring that all necessary actions are taken for implementing and applying the necessary resources to accomplish the goals of this order.

### Section 5. Interagency Coordination.

5-501. There shall be established an Interagency Coordinating Council (hereinafter referred to as the Council) that shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of this Executive Order.

5-502. The Council shall be Chaired by the Administrator of the Environmental Protection Agency, and be composed of the Secretary of the Department of Health and Human Services, Secretary of the Department of Labor, Secretary of the Department of Defense, Secretary of the Department of Energy, Secretary of the Department of the Interior, Secretary of the Department of Agriculture and other federal agencies conducting environmental programs or activities or actions with potential to impact the environment. *Temp, Council, HUD, Commission on Civil Rights, etc*

5-503. The Council shall transmit to the President and to the Congress a yearly report of its, and each agency's, activities together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this Executive Order.

### Section 6. Department of Justice and EPA Review.

6-601. The Department of Justice shall review for sufficiency all regulations required by this order.

6-602. In an effort to identify segments of the population which may be bearing a disproportionate share of the consequences of pollution, and to institute aggressive enforcement reform as needed, the Environmental Protection Agency and the Department of Justice will formulate an investigation of the inequalities in exposure to environmental hazards.



Executive Order No. \_\_\_\_\_

## ENVIRONMENTAL JUSTICE

All communities and all individuals across this nation are entitled to the strong and equal protection of the environmental laws in order to live in a safe and healthful environment. We must strive to significantly reduce pollution, toxic waste, and other environmental hazards that threaten our families and to ensure that no communities are unfairly or disproportionately subject to the dangers they pose. Accordingly, Federal environmental programs and laws must be implemented and enforced without regard to race, color, national origin, or socioeconomic status.

By virtue of the authority vested in me by the Constitution and laws of the United States, and to provide environmental protections to the citizens of the United States consistent with the Constitution, Civil Rights Act and other laws of the United States, it is hereby ordered as follows:

### Section 1. Agency Responsibilities.

1-101. Federal agencies shall implement environmental programs and activities, or actions that impact the environment (including but not limited to: regulatory and policy making activities; enforcement and compliance; data collection, analysis and management; education and outreach; communication; employment, and pollution prevention) to provide strong environmental protection for all populations without regard to race, color, national origin, or socioeconomic status.

1-102. Federal agencies shall conform their environmental programs and activities, or actions that impact the environment to prohibit discrimination by applicants for, and recipients of, federal assistance in the operation of programs, projects or activities receiving assistance as required by Title VI of the Civil Rights Act of 1964, as amended.

1-103. In order to identify segments of the population which may be bearing a disproportionate share of the consequences of pollution, and to institute aggressive enforcement reform as needed, the Environmental Protection Agency and the Department of Justice will investigate inequalities in exposure to environmental hazards.

### Section 2. Definitions.

2-201. The definitions found in Title VI are incorporated into this Executive Order by reference.

2-202. Federal Agency - a Federal Agency is any executive department, military department or independent agency within the meaning of 5 U.S.C. §§ 101, 102, 103, respectively.

### Section 3. Implementation.

3-301. Within six months of the signing of this Executive Order, each Federal Agency shall issue regulations and/or implement policies and procedures, as necessary, to achieve the requirements of this Order. The Department of Justice shall review for sufficiency all regulations required by this Order.

3-302. Each Federal Agency shall apply the necessary resources to accomplish the goals of this Order.

### Section 4. Interagency Coordination Council.

4-401. There shall be established an Interagency Coordinating Council (hereinafter referred to as the Council) that shall be responsible for developing and implementing agreements, policies and practices to promote the goals of this Order, and to increase efficiency and reduce duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of this Order.

4-402. The Council shall be Chaired by the Administrator of the Environmental Protection Agency, and composed of the Secretary of the Department of Health and Human Services, Secretary of the Department of Labor, Secretary of the Department of Defense, Secretary of the Department of Energy, Secretary of the Department of the Interior, Secretary of the Department of Agriculture, the Secretary for the Department of Housing and Urban Development, the Secretary of the Department of Commerce, the Secretary for the Department of Transportation, the Chair of the Commission on Civil Rights [what others?] and other federal agencies and entities conducting environmental programs or activities or actions with potential to impact the environment.

4-403. The Council shall transmit to the President and to the Congress a yearly report of its, and each agency's, activities together with such recommendations for legislative or administrative changes as it concludes are desirable to further achieve the purposes of this Order.

WILLIAM J. CLINTON

1. Ins/ur/va.  
2. Adopt a school/service

THE WHITE HOUSE  
WASHINGTON

March 5, 1997

MEMORANDUM TO Bruce Reed  
FROM: Diane Regas  
SUBJECT: Announcement of Executive Order and Report on Human Radiation Experiments

This memo outlines a Presidential announcement on Administration's actions to respond to the President's Advisory Committee on Human Radiation Experiments.

**BACKGROUND**

In January, 1994 President Clinton established the Advisory Committee on Human Radiation Experiments (ACHRE) to examine reports that the government had funded and conducted unethical human radiation experiments and releases of radiation during the Cold War. The Committee found that the government had conducted unethical experiments and identified changes to ensure that the government does not repeat past mistakes. In October, 1995, ACHRE made 18 recommendations to improve openness in government, protect human subjects in the future, and redress past wrongs.

We are ready to release a report detailing the Administration's actions to respond to ACHRE's findings and recommendations. The Administration has adopted most of ACHRE's recommendations and has acted throughout the government to implement them. (The report explaining the Administration's actions is titled "Building Public Trust" and can be ready for the printer with 24 hours' notice, although official Administration clearance is pending.)

One of the Advisory Committee's recommendations was to protect human subjects of *classified* research. While very few classified human subject experiments are undertaken, they raise deep concern about government abuse of individual rights.

The central new announcement in the response to ACHRE is a Presidential directive to protect human subjects of classified research, and to give the public information about how many such experiments are going on at any time. Protections include a prohibition of waiver of informed consent, disclosure that the research is classified, disclosure of the sponsoring agency, and improvements in the review and approval of experiments--

including a new appeal to the White House. This breakthrough in openness about classified research is an important step towards closing the door on a repetition of the abuses that ACHRE documented.

A second new action is a legislative proposal to expand compensation to uranium miners who have gotten lung cancer because the government failed to warn or protect them while they worked in the mines. This action will affect southwestern states--New Mexico and others.

## **MESSAGE**

President Clinton is taking the first-ever action to protect human subjects of secret research. The President's action closes the door on a repetition of the secret experiments that took place in the past.

The President's directive builds on the actions we have taken to open the government to public scrutiny and is an important part of the Clinton Administration's response to the Advisory Committee on Human Radiation Experiments.

## **PRESS INTEREST**

Press interest in this story has been somewhat variable, however the *New York Times* and ABC have reporters who have done stories. A few dailies are very likely to cover this on the front page, including the *Cleveland Plain Dealer*. Families of those who were experimental subjects can provide a human interest angle.

Some news organizations will likely draw parallels to the Persian Gulf War stories, heightening the visibility of the story.

## **POTENTIAL NEGATIVES**

The principle negative reaction we expect is from the stakeholders that are not getting compensation. They object to our failure to expand compensation to all experimental subjects and to veterans who were exposed to radiation. These stakeholders had the same objections to the original ACHRE report, but their objections have not detracted from the overall positive reaction to the report.

## **POSSIBLE EVENT OUTLINE**

We have not identified a local site for this event that would be an alternative to the White House. We can be very flexible on the level of participation in an event. Here are three possibilities:

### **Press Announcement**

The President would make a short statement announcing the his directive and the Administration's response to ACHRE. Press questions would be handled by the President or Departmental Officials focussing on the message of making government accountable.

We would need to notify key groups that the announcement is happening. We could invite the advisory committee, some representatives of experimental subjects and Cabinet officials to a photo-op later in the day.

Potential downside to this approach: the short notice will likely preclude bringing in families of experimental subjects.

### **Larger Ceremony with Press**

The President would make a short opening statement emphasizing the directive. Cabinet members could make statements that focus on openness in government and other steps in the report. The chair of the Advisory committee could also be asked to speak. Press questions would be handled in the room, by Cabinet members. This event would require a week to put together.

Attendance would include the government officials, families of experimental subjects (who were compensated about \$500,000 each); we could try to invite uranium miners (or families) for whom we are proposing expanded compensation. The latter two groups would require that the Administration pay for travel. Additional stakeholder representatives (there are Washington-based interest groups), key (bipartisan) Congressional representatives, a few departmental staff who have done the work on the response.

File:  
EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

6 PAGES TO FOLLOW 6/1/93

OFFICE OF  
THE ADMINISTRATOR

— BRUCE REED —

456-7739

I UNDERSTAND THAT MIKE VANDENBERGH MENTIONED THIS PROPOSED EXECUTIVE ORDER ON ENVIRONMENTAL JUSTICE TO YOU A COUPLE WEEKS AGO. LORRAINE MILLER IS ALSO AWARE OF OUR THOUGHTS.

I WOULD LIKE TO TALK WITH YOU ABOUT IT. THE ATTACHED DRAFT IS THE LATEST PRODUCT OF OUR ONGOING DISCUSSIONS WITH DOJ. PLEASE GIVE ME A CALL.

THANKS

CHUCK FOX

260-7960

6/01/93

## WORKING DRAFT

## Proposed Executive Order on Environmental Justice

WHEREAS, all communities and all individuals across this nation are entitled to a safe and healthful environment that is protected on an equal basis by federal, state and local laws, regulations, and services, and

WHEREAS, environmental hazards have had a disproportionate impact on communities that are identified by race, color, national origin, sex, socioeconomic status or other characteristics, and

WHEREAS, such hazards must be managed and controlled so that all communities receive equal environmental protection,

Now, Therefore, by virtue of the authority vested in me by the Constitution and laws of the United States, and as President of the United States, in order to further environmental objectives consistent with the Constitution, Civil Rights Acts and other laws of the United States including (but not limited to) the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601-9675), the Clean Air Act (42 U.S.C. §§ 7401-7671g), the Clean Water Act (33 U.S.C. §§ 1251-1387), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §§ 11001-11050), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136-136y), the National Environmental Policy Act (42 U.S.C. §§ 4321-4370b), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901-6992k), the Safe Drinking Water Act (42 U.S.C. §§ 300f-300j-26), the Toxic Substances Control Act (15 U.S.C. §§ 2601-2671), and the Pollution Prevention Act ( ), it is ordered as follows:

## Section 1. Definitions.

[old EPA 2-201, DOJ 1-101]

1-101. The definitions found in the Environmental Protection Agency and Department of Justice regulations implementing Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) are incorporated into this Executive Order by reference.

[old EPA 2-202, DOJ 1-102]

1-102. Federal Agency - a federal agency is any executive department, military department or independent agency within the meaning of 5 U.S.C. §§ 101, 102, 104(1), respectively.

## Section 2. Federal Agencies.

### EPA [old EPA 1-101]

2-201. Federal Activities. Federal agencies shall conduct their environmental programs and activities (including but not limited to, regulatory and policy making activities; enforcement and compliance; data collection, analysis and management; education and outreach; communications; employment; and pollution prevention) and actions that impact the environment (including but not limited to, siting of projects and facilities and facility operations) in a manner that provides equal environmental protection for all populations without regard to race, color, national origin, sex or socioeconomic status.

### DOJ [old DOJ 3-301]

2-201. Federal Activities. No person shall, on the ground of race, color, national origin, sex, socioeconomic status or other characteristics, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any federal program or activity or any federal action that impacts or has the potential to impact human health and the environment. This prohibition shall apply to, but is not limited to, an agency's regulatory and policy making activities; program review; enforcement and compliance; data collection, analysis and management; education and outreach []; communications []; employment [], pollution prevention [], siting of projects and facilities and facility operations.

### EPA [old EPA 1-102]

2-202. Programs Receiving Federal Assistance. All agencies shall assure that the requirements of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination by applicants for, and recipients of, federal assistance in the operation of programs or activities receiving such assistance, are met in implementing their environmental programs and activities and actions that impact the environment.

### DOJ [old DOJ 3-302]

2-202. Programs Receiving Federal Assistance. Each Federal Agency shall [] require assurances by applicants for, and recipients of, federal assistance in the operation of programs or activities that all programs or activities that affect human health and the environment or have the potential to impact human health and the environment adequately assure that such applicants or recipients do not use criteria or methods in the operation of such programs that [] have the effect of subjecting communities or individuals to discrimination because of their race, color, national origin, sex, socioeconomic status or other

characteristics, or that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, sex, socioeconomic status or other characteristics. [ ] In addition, agencies shall require from recipients of federal assistance periodic compliance reports containing the information that the responsible agency determines is necessary to enable the agency to ascertain whether the recipient has complied, or is complying, with the terms of this Order. [ ]

DOJ [old DOJ 3-303]

2-203. Unless otherwise prohibited by law, each Federal Agency shall require assurances that any program, implementation plan, or other activity administered or implemented by, or delegated to a nonfederal agency or private entity and subject to the oversight or approval of the Federal Agency [ ] meets the requirements imposed on Federal Agencies by [ ] Section [ ] 2-201. In addition, each Federal Agency shall review the adequacy of such assurances upon the petition of any person aggrieved by an alleged failure by the nonfederal agency or entity to satisfy the requirements of this order.

DOJ [old DOJ 3-304]

2-204. All Federal Agencies subject to the requirements of this Section, in addition to applying the foregoing requirements to their current activities, shall take affirmative steps [ ] to address and remedy disproportionate exposures created by factors such as historical patterns of environmental regulation, pollution control, zoning and siting that have had the effect of subjecting communities or individuals to discrimination because of their race, color, national origin, sex, socioeconomic status or other characteristics or that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, sex, socioeconomic status or other characteristics.

[old EPA 4-401, DOJ 3-305].

2-205. The head of each Federal Agency shall be responsible for ensuring that all necessary actions are taken for implementing and for applying the necessary resources to accomplish the goals of this order.

**Section 3. Interagency Coordination of Nondiscrimination Provisions.**

[old EPA 5-501, DOJ 2-201].

3-301. There shall be established an Interagency Coordinating Council (hereinafter referred to as the Council) that shall be responsible for developing and implementing agreements, policies and practices that maximize effort, promote efficiency, and eliminate conflict and inconsistency among the of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of this Executive Order.

3-302. The Council shall be Chaired by the Administrator of the Environmental Protection Agency, (or its successor), and shall be composed of the Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Defense, the Secretary of Energy, the Secretary of Interior, the Secretary of Agriculture, the Secretary of Transportation, the Chairman of the Commission on Civil Rights, and other federal agencies designated by the Council Chair that conduct environmental programs or activities or undertake actions with potential to impact the human health and the environment.

DOJ [old DOJ 2-203]

3-303. The Council [] shall require the heads of agencies to review all rules, regulations, and orders of general applicability that affect human health or the environment to assure that applicants for, and recipients of, federal assistance in the operation of programs do not use criteria or methods of administering such programs that [] have the effect of subjecting communities or individuals to discrimination because of their race, color, national origin, or status or that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin. By a date set by the Council, each Federal Agency shall report to the Council the results of this review.

DOJ [old DOJ 2-204]

3-304. Based on the reports required by Section 2-203, the Council shall provide the heads of agencies with recommendations for needed improvement in rules, regulations, and orders of general applicability to assure that such rules, regulations, and orders satisfy the purpose of this Order.

EPA [old EPA 3-301]

3-301. Within six months of the signing of this Executive Order, each Federal Agency must promulgate regulations that consistent with the requirements of this order. The regulations shall bar

discriminatory effects as well as intentionally discriminatory acts. Each federal agency shall also implement any administrative actions or policies necessary to achieve the requirements of this order.

DOJ [old DOJ 2-205]

3-305. Unless otherwise prohibited by law, within 60 days after a date set by the Council, each Federal Agency shall revise its regulations, practices, [ ] procedures, and orders of general applicability according to the recommendations of the Council. [ ] Disputes between a Federal Agency and the Council concerning any recommendation by the Council shall be resolved as provided in Section 1-4 of Executive Order 12146 (July 18, 1979) (Resolution of Interagency Legal Disputes).

DOJ [old DOJ 2-206]

3-306. Any person aggrieved by a Federal Agency's alleged failure to review or revise its regulations, programs, and practices in accordance with the Council's recommendation or with the requirements of this Order may petition the Council to review the alleged failure. Upon receipt of such a petition, the Council shall require the appropriate Federal Agency to investigate the alleged failure. By a date set by the Council, the Federal Agency shall report to the Council the results of such investigation. Upon receipt of such report, the Council shall provide the Federal Agency with recommendations responsive to the petition. Thereupon, the Agency shall implement the recommendations or invoke the dispute procedures incorporated in Section 2-205 of this Order.

DOJ [old DOJ 2-207]

3-307. The Council shall establish guidelines for: agency reevaluation of models to determine if risks which affect individuals of a particular race, color or national origin are properly considered; agency collection of data relating to communities that the identified by race, color, or national origin or that have been historically disadvantaged; and agency development of procedures that facilitate participation by persons of all races, colors, and national origins.

[old EPA 5-503, DOJ 2-208].

3-308. The Council shall transmit to the President and to the Congress a yearly report of its, and each agency's activities undertaken pursuant to this Order together with any recommendations for legislative or administrative changes that it concludes are desirable to further promote the purposes of this Order.

~~DOJ [old DOJ 2-209]~~

DOJ [old DOJ 2-209]

3-309. Each Federal Agency shall cooperate with the Council in the performance of the Council's functions under this Order and shall, unless prohibited by law, furnish such reports and information as the Council may request.

Section 4. Department of Justice Obligations.

DOJ

4-401. The Department of Justice shall review and consider requests that the Department present the views of the United States in any judicial, administrative, or other proceeding where issues implicating the requirements and purposes of this Order are presented. After consultation with the Council and any potentially affected Federal Agency, the Department may present the views of the United States where it deems such participation in the interest of the United States.

Section 5. [ ] Interagency Strategy.

[old EPA 6-601, DOJ 5-501]

5-501. The Environmental Protection Agency (or its successor) shall, in collaboration with the Department of Justice and other agencies, [ ] identify segments of the population that may be bearing a disproportionate share of the consequences of pollution, and [ ] develop and implement strategies to rectify such inequalities.

Section 6. General Provisions.

[old EPA 7-702, DOJ 6-601]

6-602. Executive Order No. 12250 of November 2, 1980, requiring consistent and effective implementation of various laws prohibiting discriminatory practices in Federal programs and programs receiving Federal financial assistance, shall remain in effect.

DOJ

6-602. Existing agency regulations implementing the nondiscrimination provisions of laws covered by this Order shall continue in effect until revoked or modified.

[old EPA 7-701, DOJ 6-603]

6-603. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its Agencies, its officers, or any person.