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REPORT TO THE PRESIDENT ON EXECUTIVE ORDER 12898



*Federal Actions to Address Environmental Justice
in Minority Populations and Low Income Populations*

April 11, 1995

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I. INTRODUCTION

The President's Executive Order 12898, "Federal Actions to Address Environmental Justice In Minority Populations and Low Income Populations" ("the Executive Order"), signed February 11, 1994, requires the Assistant to the President for Domestic Policy and the Deputy Assistant to the President for Environmental Policy to submit this report to the President. This report describes the implementation of the Executive Order, and includes the final environmental justice strategies. The attached strategies have a primary emphasis on matters of process, such as increasing outreach to affected communities, and revising internal management and decision making to incorporate environmental justice concerns. The emphasis on process in the effort to date has been valuable because improvements in outreach and the policy making structure will help agencies to more meaningfully dialogue with stakeholders and refocus policies and programs. However, future emphasis must be placed on discrete, concrete actions that will specifically address the needs of particular communities in the near term.

II. BACKGROUND

The environmental justice movement has grown from a group of African American students protesting a garbage dump in Houston in 1967 to a national movement that encompasses thousands of grassroots organizations, the commitment of hundreds of state and local officials, the initiative of business leaders, and, through Executive Order 12898, the force of the federal government. As President Bill Clinton has stated, "All Americans have a right to be protected from pollution—not just those who can afford to live in the cleanest, safest communities."

The environmental justice movement is a response to the reality that historically, low-income populations and minority populations have suffered disproportionately from the effects of pollution and other environmental risks. While scholars disagree about the reasons for this, there is no question that in both rural and urban communities low-income and minority populations consistently demonstrate higher levels of environmentally-related health disorders than the general population. In response, thousands of people in neighborhoods, towns, cities, and counties across the country have formed the environmental justice movement. These individuals work to ensure that city dwellers, disproportionately exposed to air pollution, breathe cleaner air; that children are protected from peeling and exposed lead paint and dust; that the individuals who provide America with our bounty of agricultural products are not slowly poisoned by pesticides; and that those who subsist on native fish and wildlife can continue to do so.

In addition to these grassroots organizers, several States and the National Governors' Association have joined in the environmental justice movement through legislation and other initiatives. Arkansas became the first State, in April 1993, to pass environmental justice legislation. Tennessee, Louisiana, Virginia, and Florida are among the many states that have passed laws, created commissions, or begun studies. These activities have helped to increase the participation of all communities in environmental decisionmaking and ensure that environmental laws are enforced in every community.

Industry leaders have also recognized that addressing environmental justice concerns makes good business sense. Industry increasingly recognizes that future siting plans must involve greater community participation. Both the Chemical Manufacturers Association and the National Association of Manufacturers as well as individual companies such as AT&T, Dow, Dupont, and WMX have initiated environmental justice projects. These groups have worked intensely with the Environmental Protection Agency and community leaders to improve available data and establish lasting channels of communication.

As Governor of Arkansas, President Clinton was among the first state leaders to recognize that some of the most vulnerable of our nation's communities are subject to some of the most serious health and environmental threats. For instance, as Chairman of the Lower Mississippi Delta Commission, then-Governor Clinton recognized that a critical component in addressing the needs of the poorest region of America involved eliminating the disproportionate effects of environmental pollution and hazardous materials on minority, low-income, and rural communities in the region.

Vice-President Al Gore also has been fundamentally committed to the environmental justice movement from its inception. As a Senator, he introduced legislation to identify low-income and minority communities disproportionately affected by toxic materials and to address their unique needs. In addition, Vice-President Gore was instrumental in establishing the National Religious Partnership for the Environment. The Partnership brings together the National Council of Churches, the U.S. Catholic Conference, the Consultation on the Environment and Jewish Life, and the Evangelical Environmental Network. The members of the Partnership integrate the groups' traditional concern for the poor and underprivileged with their concern for the environment.

President Clinton and Vice-President Gore, during the 1992 campaign, pledged to protect "people who are most vulnerable, who are poor, many of whom live in our inner cities, from unfair exposure to environmental hazards." The message of environmental justice was perhaps most poignantly conveyed to the President by a young man named Pernell Brewer, who spoke at a children's town

hall meeting in 1993. Pernell dramatically described the toll pollution has taken on his community, a small section of Louisiana once known as "Cancer Alley." This area, with its many chemical plants, is home to many low-income and minority individuals. After years of pollution, this community has been devastated with an unusually high incidence of cancer and other problems. Pernell told the President that twenty of his relatives have been diagnosed with cancer, and most tragically, that his 10-year-old brother died of a rare brain tumor.

In response to Pernell and many others like him, President Clinton recognized that the federal government has an obligation to address the environmental injustices suffered disproportionately by low-income and minority communities.

III. THE EXECUTIVE ORDER

On February 11, 1994, President Clinton issued Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The Executive Order established environmental justice, for the first time, as a federal government priority and directed all federal agencies to make environmental justice part of their mission. The Executive Order had three goals:

- to focus federal agency attention on the environment and human health conditions in minority communities and low-income communities;
- to promote non-discrimination in federal programs that substantially affect human health and the environment; and
- to 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.

President Clinton directed the following agencies and White House offices to participate in the environmental justice initiative: the Departments of Justice, Defense, Energy, Labor, Interior, Transportation, Agriculture, Housing and Urban Development, Commerce, Health and Human Services; the Environmental Protection Agency, the Office of Management and Budget, the Office of Science and Technology Policy, the Council on Environmental Quality, the Domestic Policy Council, and the Council on Economic Advisors. In addition, the Nuclear Regulatory Commission and the National Aeronautics and Space Agency each volunteered to participate. The President directed each federal agency to review its programs, policies, and activities and develop a strategy for addressing as appropriate any disproportionately high and adverse human health or environmental effects on minority populations and low-income populations. The agency strategies accompany this report. Highlights are discussed below.

1. Interagency Coordination

The Executive Order directs the agencies to form an Interagency Working Group (the "Working Group") on environmental justice. President Clinton chose the Administrator of the Environmental Protection Agency, Carol M. Browner, to chair this group. EPA's Office of Environmental Justice has enabled the Working Group to coordinate the diverse activities of the various federal agencies. The Working Group has met approximately monthly since May 1994, and has served as a resource and a clearinghouse for the agencies as they have worked to incorporate environmental justice principles into their programs and activities.

In conjunction with the Working Group, several task forces were assembled to address the specific elements of the Executive Order. Task forces considered research and health issues, public outreach, data, enforcement and compliance, implementation issues, definitions and standards, interagency pilot projects, and Native American issues. Some of the current and anticipated efforts of the task forces include:

- reports on including diverse populations in health studies, involving community members in designing environmental research strategies, protecting those who subsist on fish and wildlife, and addressing environmental justice in the workplace;
- the upcoming release of the first computer-accessible compilation of health, environmental, and geographic data available for use by grassroots environmental justice groups; and
- the issuance of guidance to the agencies on how to develop and implement their environmental justice strategies, how to best form interagency partnerships, and how to consider environmental justice principles in conjunction with the National Environmental Policy Act (NEPA).

The Executive Order directs the Working Group to meet with the public and gather suggestions, questions, and comments on interagency efforts on environmental justice. On January 20, 1995, the Working Group held an unprecedented public meeting on environmental justice issues involving almost every cabinet-level agency. Over 350 people from around the country met at Clark Atlanta University in Atlanta, Georgia, in large forum meetings and one-on-one with agency officials to share their concerns regarding environmental justice and to provide specific suggestions on the agencies' strategies. The evening session was marked by an interactive televised working session on environmental justice hosted by former Georgia State Senator Julian Bond and broadcast by the Black College Satellite Network. The broadcast reached an estimated 40 locations in the United

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States and Puerto Rico. Throughout the evening, viewers called in questions on environmental justice to a panel of senior Administration officials. The meeting provided federal agency officials with a clear picture of the nationwide concern and commitment to environmental justice.

2. Environmental Justice Strategies

The Executive Order directs each federal agency to develop a strategy for implementing the principles of environmental justice into the agency's programs, policies, and activities. In developing their strategies, agencies were directed to consider which of their programs or activities might be modified to:

- promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations;
- ensure greater public participation in agency decisionmaking;
- improve research and data collection relating to the health and environment of minority populations and low-income populations; and
- identify differential patterns of consumption of natural resources among minority populations and low-income populations.

Each agency considered these issues in light of its own policies and programs. But the attached strategies reflect common themes: achieving environmental justice in federal programs; enhancing existing agency activities through consideration of environmental justice principles; and improving communication with low-income and minority populations.

i. Achieving Environmental Justice

The Executive Order has been successful in helping agencies to identify current projects and generate new initiatives, often through interagency cooperation and coordination, that address negative environmental health impacts on minority and low-income populations. The Department of Housing and Urban Development (HUD) has initiated a number of projects to address the critical issue of elevated lead levels in children's bloodstreams. While this issue affects children from all income levels and housing types, children from low-income families, and families without easy access to safety information are especially vulnerable. In response, HUD has provided grants to State and local governments to support public education, paint inspections, risk assessments, and lead abatements. One of HUD's most successful initiatives has involved training community members in Hispanic and African American communities particularly affected by lead-based paint in various abatement techniques and lead-based paint hazard reduction. HUD has

worked closely with EPA to coordinate lead-based paint risk assessment and abatement strategies.

EPA and HUD have also worked closely to encourage and enable the cleanup and reuse of urban "brownfields." Brownfields are usually urban areas previously occupied by some type of industry and now contaminated. Cleaning up these sites promotes economic development and abates health hazards in those communities particularly in need and prevents contamination of as yet undeveloped "greenfields." EPA and HUD are currently engaged in a brownfields initiative announced by Administrator Browner in January 1995. This initiative involves 50 pilot projects around the country in which federal resources will speed environmental cleanups and economic development in distressed urban cores. The first such project, in Cleveland, involved a \$100,000 investment by EPA that generated \$1.7 million in cleanup and 100 new jobs.

The Superfund Medical Assistance Plan is another pilot project that exemplifies both the community focus of environmental justice and successful interagency cooperation. The project is a collaboration between EPA and HHS. The project involves four pilot communities where a Superfund hazardous waste site is located. Federal agency officials working with local residents and local health and environmental institutions provide a coordinated response to the community's health-related needs and concerns.

The Department of Transportation has established a "Liveable Communities" project that demonstrates how even agencies whose primary mission is not protection of human health and the environment can adopt environmental justice principles. One Liveable Communities initiative brought Oakland, California residents from the predominantly Spanish-speaking neighborhood of Fruitdale into the process of developing a Bay Area Rapid Transit (BART) station for the neighborhood. The result is that residents will enjoy the development of a new BART station along with a number of needed community services, such as a health clinic and police substation, within easy access of the station.

Recognizing that the federal government can assist in achieving environmental justice as it brings and defends cases, the Department of Justice and EPA are working together to enforce environmental laws in all communities, particularly low-income and minority communities. For example, EPA Region III recently conducted a study of existing and proposed industrial facilities in and around Chester, Pennsylvania and it is in the process of identifying enforcement opportunities. Chester has the highest concentration of industrial facilities in Pennsylvania and also has the highest infant mortality rate, lowest birth rate, and among the highest death rate due to certain malignant tumors. EPA Region III has already issued a number of field citations to underground storage tank owners in and around Chester.

Another major interagency initiative involves the Colonias, impoverished rural areas along the United States-Mexico border, characterized by poor housing, inadequate drainage, and substandard or no water and sewer facilities. HUD, EPA, and DOJ have formed a working group to develop an integrated financial and technical assistance plan for people in these areas. The agencies are working together to develop safe water sources and assist residents in economic development to provide a long-term remedy for these problems.

In one of several agency projects to address the environmental justice needs and concerns of Native Americans, DOD has initiated several demonstration projects to address Native Americans' access to, and maintenance of, traditional cultural properties located on DOD facilities. One project involves DOD working with the Muscogee (Creek) Nation to provide access to traditional Creek properties on approximately 15 military bases in the southeastern United States.

These examples of agency and interagency projects demonstrate the federal government's commitment to carry out the mandate of President Clinton's Executive Order to identify and address disproportionately high and adverse human health or environmental effects of federal government programs, policies, and activities on minority populations and low-income populations. With the twenty-fifth anniversary of Earth Day in April 1995, it is appropriate for the federal government to renew its commitment to environmental justice principles and to consider what the next steps should be in carrying out the mandate of the Executive Order.

ii. Enhancing Existing Activities

The Executive Order has prompted agencies to develop effective internal mechanisms to ensure that environmental concerns are addressed. Many agencies have organized department-wide coordinating committees on environmental justice. These committees have served to educate agency staff on, and to coordinate agency responses to, environmental justice issues. Examples include the Department of Defense (DOD) Committee on Environmental Justice, the Environmental Protection Agency (EPA) Executive Steering Committee for Environmental Justice and the Department of Energy's Steering Committee comprised of four Secretarial Officers. These committees work to ensure that the long-term goals of the agency are consistent with environmental justice.

A number of Cabinet Secretaries have issued directives on environmental justice. For example, Attorney General Janet Reno issued departmental guidance concerning environmental justice and directed departmental personnel to work to protect environmental quality in all communities by providing full and fair enforcement of environmental, civil rights, civil, and criminal laws. Similarly, EPA Administrator Carol Browner has established environmental justice as an agency-wide priority that is to be incorporated into every applicable agency program.

iii. Improving Communication

The Executive Order has caused agencies to reconsider the way they communicate with communities affected by federal programs and to make effective public outreach to all communities an integral part of the way agencies do business. In addition to broad agency participation in the Atlanta meeting described above, each of the agencies has sought public comment specifically on their environmental justice strategies and has also established lasting channels of communication with the environmental justice community. For example, under the authority of the Federal Advisory Committee Act, EPA established the National Environmental Justice Advisory Council (the "NEJAC"). The members of the NEJAC, representing community leaders, academic institutions, environmental justice organizations, state, tribal, and local officials, and business leaders, have provided EPA with invaluable assistance in developing its environmental justice strategy under the Executive Order.

Other agencies have also taken significant steps toward improving communication with low-income and minority populations. For instance, the Transportation Department sponsored a National Conference on Transportation, Social Equity, and Environmental Justice in Chicago on November 17 and 18, 1994. The conference brought together grassroots organizers with members of the Secretary of Transportation's staff and representatives from six other agencies to identify key transportation-related environmental and social issues of concern to individuals from low-income and minority neighborhoods. In February 1994, the Department of Health and Human Services (HHS) held a landmark Symposium on Health Research and Needs to Ensure Environmental Justice. The event drew over 1,000 participants from community groups, academia, and the government and has helped to initiate a continuing partnership between HHS officials and leaders in the environmental justice movement.

III. CONCLUSION AND RECOMMENDED NEXT STEPS

Agencies are currently in the process of implementing the procedures, projects, and initiatives outlined in their respective strategies. Each appears to have developed sufficient internal mechanisms to ensure timely implementation of their strategies and adequate oversight and accountability to ensure that potential failings of the strategies are discovered and addressed.

Nonetheless, there remain significant challenges to sustained implementation and pursuit of the goals of Executive Order 12898. These challenges stem in part from the nature of the agencies' efforts to date. As an initial matter, the strategies presented have a primary emphasis on matters of process, such as increasing

outreach to affected communities and revising the architecture of internal management and decisionmaking to incorporate environmental justice concerns. By contrast, there is less emphasis on discrete, concrete actions that will specifically address the needs of particular communities in the near term. There is also continuing suspicion among affected communities that, in a climate of diminishing agency resources, attention to environmental justice will be among the first casualties of budgetary pressure and agency streamlining. This skepticism is fed by current efforts to curtail or eliminate programs vital to the lives of communities concerned with environmental justice, ranging from school lunch programs to safe drinking water funds.

These challenges must be kept in perspective. The emphasis on process in the effort to date has been valuable because improvements in outreach and the policymaking structure will help agencies be more responsive and accountable. Moreover, a number of agencies have already taken effective, concrete actions to aid communities that have suffered disproportionate exposure to environmental harm. EPA and HHS are to be particularly commended in this regard, as illustrated in the EPA brownfields initiative and accompanying efforts to deliver medical services and collect epidemiological data in communities affected by brownfields sites.

The concern that attention to the issue of environmental justice will diminish underscores the need for a set of performance milestones that are concrete, well-defined, and achievable within nine to twelve months. By its terms, the Executive Order calls for a second report to the President following the second year of implementation. At that time, we recommend that each agency covered by the Executive Order be required to submit as its report the following:

- a summary of the agency's success to that point in implementing the Executive Order;
- a limited set of discrete, concrete agency actions that have been completed and that will have concrete benefits for affected communities; and
- a limited set of discrete, concrete agency actions that are planned for the subsequent year.

This focused requirement for the second report should help sustain and strengthen the agency effort exhibited thus far, while establishing an expectation that this effort will achieve results that will have immediacy and importance to the lives of communities that have had to bear more than their share of environmental hazards. Accordingly, we ask you to approve this further directive to guide the agencies as they enter what should be a second year of success in identifying and addressing issues of environmental justice.

