

US EPA ARCHIVE DOCUMENT

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Appendix 2: Definitions

The term “the public” is used in the Policy in the broadest sense, meaning the general population of the United States. Many segments of “the public” may have a particular interest or may be affected by Agency programs and decisions. In addition to private individuals, “the public” includes, but is not limited to, representatives of consumer, environmental and other advocacy groups; environmental justice groups; indigenous peoples; minority and ethnic groups; business and industrial interests, including small businesses; elected and appointed public officials; the news media; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional representatives and societies; civic and community associations; faith-based organizations; and research, university, education, and governmental organizations and associations.

“Stakeholders” are representatives from organizations or interest groups who have a strong interest in the Agency's work and policies.

“Affected parties,” are stakeholders who are or may be impacted by EPA decisions.

“Fair treatment” as defined on EPA’s environmental justice web page [<http://www.epa.gov/compliance/environmentaljustice/index.html>], means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

“Meaningful involvement” (See [<http://www.epa.gov/compliance/environmentaljustice/index.html>]) means that: (1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) the concerns of all participants involved will be considered in the decision-making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.

“Tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

“Timely information” means distributing information sufficiently far in advance so that the interested public have enough time to review relevant material, decide whether to become involved, and make plans for that involvement. Timely applies to the availability of background information on particular issues, as well as notification of public meetings, public comment periods or other critical involvement activities.

Alternative (means of) Dispute Resolution” is “any procedure that is used to resolve issues in controversy, including but not limited to conciliation, facilitation, mediation, fact finding, minitrials, arbitration, use of ombuds or any combination thereof.” 5 U.S.C. 571(3)

A “Significant information product” uses national or regional data to describe environmental conditions, trends, and/or the performance of companies, facilities, and communities. (See <http://www.epa.gov/ipbpages>)

Appendix 3: Examples of EPA’s Public Involvement Regulations

The following citations to EPA regulations are intended to provide examples of current EPA regulations that contain public involvement procedures for specific programs. This is not an exhaustive list, but it contains a good cross section of administrative regulations, procedures and decision process requirements for public involvement. Numerous EPA rules, regulations, policies and procedures contain such requirements.

- 40 CFR Part 2 - Freedom of Information Act
- 40 CFR Part 6 - Procedures for Implementing the Requirements of the Council on Environmental Quality of the National Environmental Policy Act
- 40 CFR Part 25 - Public Participation in Programs under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act
- 40 CFR Part 51 - Requirements for Preparation, Adoption, and Submittal of Implementation Plans (under the Clean Air Act)
- 40 CFR Part 124 - Procedures for Decisionmaking (EPA procedures for issuing, modifying, revoking and reissuing or terminating all RCRA, UIC, PSD, and NPDES permits)
- 40 CFR Part 154- Special Review Procedures (procedures to assist the Agency in determining whether to initiate procedures to cancel, deny or reclassify registration of a pesticide product because uses of that product may cause unreasonable adverse effects on the environment)
- 40 CFR Part 164 - Rules of Practice Governing Hearings, Under the Federal Insecticide, Fungicide, and Rodenticide Act, arising from Refusals to Register, Cancellations of Registrations, Changes of Classifications, Suspensions of Registrations and other Hearings Called Pursuant to Section 6 of the Act
- 40 CFR Part 173 - Procedures Governing the Rescission of State Primary Enforcement Responsibility for Pesticide Use Violations
- 40 CFR Part 271 - Requirements for Authorization of State Hazardous Waste Programs
- 40 CFR Part 300 - National Oil and Hazardous Substances Pollution Contingency Plan, Subpart E - Hazardous Substance Response (establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA and CWA section 311(c))
- 40 CFR Part 300 - National Oil and Hazardous Substances Pollution Contingency Plan, Subpart I - Administrative Record for Selection of Response Action

- 40 CFR Part 790 - Procedures Governing Testing Consent Agreements and Test Rules (Procedures for gathering information, conducting negotiations, and developing and implementing test rules or consent agreements on chemical substances under section 4 of the Toxic Substances Control)

Appendix 4: Advisory Committees

When the Agency seeks to obtain advice or recommendations from a group that includes one or more individuals who are not federal government employees, the Agency should determine whether the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, applies. If it does, meetings of the group must comply with FACA requirements. FACA requires, among other things, that such groups be chartered, have a balanced membership, hold open meetings and make written materials available to the public. EPA staff should consult with the Office of General Counsel or the Office of Regional Counsel to determine whether FACA applies and the Committee Management Officer in the Office of Cooperative Environmental Management for guidance on complying with the FACA requirements.

The primary function of an advisory group is to provide advice and recommendations to federal officials. Advisory groups also can provide a forum for addressing issues, promoting constructive dialogue among the various interests represented on the group, and enhancing community understanding of the Agency's action. FACA committees address a wide variety of issues, including policy development, project alternatives, financial assistance applications, work plans, major contracts, interagency agreements, and budget submissions.

A. Requirements for Federal EPA Advisory Committees: The FACA requirements include:

- *Charter.* EPA must develop a charter for each advisory committee, consult with GSA regarding the charter, and file it with Congress. The Charter must contain several specific elements, including the committee's official designation, the objectives and the scope of its activities, the period of time necessary for the committee to carry out its objectives, the agency or official to whom the committee reports, the agency responsible for providing the necessary support for the committee, and a description of the duties for which the committee is responsible. The charter must be renewed every two years. 5 U.S.C. App. 2, sec. 9.
- *The Establishment Federal Register Notice.* At least 15 calendar days before the charter for a new committee is filed with Congress, EPA must publish a notice of establishment in the Federal Register. This notice describes the nature and purpose of the committee, the agency's plan to attain fairly balanced membership, and a statement that the committee is necessary and in the public interest. 5 U.S.C. App. 2, sec. 9.
- *Balanced Membership.* Advisory committees must be "fairly balanced" in the points of view represented. 5 U.S.C. App. 2, sec. 5.
- *The Meeting Federal Register Notice.* EPA must publish a notice in the Federal Register of each advisory committee meeting at least 15 calendar days prior to the meeting. 5 U.S.C. App. 2, sec. 10.
- *Open Meetings.* Interested persons may attend any advisory committee meeting (unless the meeting is closed) and appear before and/or file written statements with any advisory committee. 5 U.S.C. App. 2, sec. 10.
- *Minutes.* Detailed minutes must be kept of all advisory committee meetings. 5 U.S.C. App. 2, sec. 10.

- *DFO Attendance.* A Designated Federal Official (DFO) must attend each advisory committee meeting and approve the agenda. The DFO must be a full-time federal employee. The DFO is authorized to adjourn meetings when it is in the public interest to do so. 5 U.S.C. App.2, sec.10.
- *Closed Meetings.* Meetings may be closed only in accordance with the exceptions set out in the Government in the Sunshine Act (5 U.S.C. 552b(c)). To close a meeting to the public, the DFO must obtain the approval of both the Administrator and the General Counsel. 5 U.S.C. App. 2, sec.
- *Availability of Documents.* Subject to the FOIA exemptions, all documents provided to or created by or prepared for an advisory committee must be provided to the public on request. 5 U.S.C. App. 2, sec. 10.

B. State and Local Advisory Committees: In instances where regulations, program guidance or the public involvement plans of state or local agencies, call for advisory groups, such groups should follow applicable state and local laws.

The following addendum is not intended to be part of the Policy. It contains additional information that may be useful to EPA staff and the public.