

US EPA ARCHIVE DOCUMENT

Frequently Asked Questions on the Final Public Involvement Policy

1. Why does EPA want public involvement in its decision-making?

EPA's activities affect the American people in their homes, communities and places of work. The issues with which the Agency is involved are usually complex and controversial, with no clear answers and a wide array of opinions on how to address them. At EPA, we have learned that we make better decisions when we consult with the people that are affected by our actions. Progress in environmental protection depends on enforcement of regulations, but in recent years, it also depends on partnerships and stewardship with businesses and communities. Facilitating public involvement in EPA's decisions fosters such partnerships and ensures that EPA's decisions reflect the interests and concerns of affected people and entities.

2. Why does EPA need a Public Involvement Policy?

The Public Involvement Policy will provide guidance and direction to EPA staff and managers on reasonable and effective means to involve the public in the Agency's decision-making processes. Over the years, EPA's program offices have used various approaches to public involvement, and have tried numerous innovative approaches that should be shared with other programs. Implementing the new Public Involvement Policy will encourage more opportunities for involvement and more consistent practices across the Agency, making it easier for the public to become involved and to affect the outcome of EPA's decisions. This in turn will help EPA carry out its mission by providing the Agency with a better understanding of the public's viewpoints, concerns and preferences.

3. What impact will the Policy have?

Once fully implemented, the Policy will ensure that more consistent and effective public involvement opportunities exist across the Agency's programs and regions. Agency staff will be better skilled in involving the public, and it will be easier for stakeholders and affected members of the public to contribute to the Agency's decisions in a meaningful way.

4. What are the specific outcomes that will result from this Policy?

The purposes of this Policy are to:

- Improve the acceptability, efficiency, feasibility and durability of the Agency's decisions
- Reaffirm EPA's commitment to early and meaningful public involvement
- Ensure that EPA makes its decisions with an understanding of the interests and concerns of affected people and entities
- Promote the use of a wide variety of techniques to create early and, when appropriate, continuing opportunity for public involvement in Agency decisions
- Establish clear and effective guidance for conducting public involvement activities

5. Who is "the public" in this Policy?

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.

6. Will this Policy be applied to every EPA decision, whether the decision is a major or minor one?

This Policy applies to all EPA programs and activities. In programs or activities where the public is already meaningfully involved, EPA can use this Policy to enhance that public involvement. Where the existing level of public involvement needs to improve, this Policy provides suggestions for how to move forward. Finally, this Policy can serve as a model for building public involvement into new programs as they are developed.

The activities where conducting meaningful public involvement should particularly be considered include:

- EPA rulemaking, when the regulations are classified as Economically Significant Actions (under the terms of Executive Order 12866)
- EPA issuance or significant modification of permits, licenses or renewals
- Selection of plans for cleanup, remediation or restoration of hazardous waste sites or Brownfields properties
- EPA's decision on whether to authorize, delegate or approve states or local governments to administer EPA programs consistent with the relevant regulatory requirements for each program (Note: Tribes seeking approval to administer environmental programs under EPA statutes generally also seek "treatment in a similar manner as a state (TAS)" status from EPA. Appropriate opportunities for public participation are contained in the relevant statutory and regulatory provisions establishing a TAS process. Consult with the Office of Regional Counsel or the Office of General Counsel, and/or the American Indian Environmental Office for assistance.)
- All other policy decisions that are determined by the Administrator, Deputy Administrator or appropriate Assistant, Regional or Associate Administrator to warrant public participation in view of EPA's commitment to involve the public in important decisions
- The development of significant information products (as the Office of Environmental Information has defined them in Appendix 2: Definitions)

7. Is EPA creating new public involvement requirements with this Policy?

No. This Policy is not a rule, is not legally enforceable, and does not confer legal rights or impose legal obligations on any member of the public. It is, however, EPA's statement of its strong commitment to full and meaningful public involvement in Agency activities. This Policy should encourage the use of more techniques.

8. Will the new Policy replace public participation requirements in existing laws or regulations?

No. Public participation requirements in existing laws and regulations must be met. This Policy, however, can supplement those requirements and enable EPA to implement them in the most effective ways. It can also build greater awareness of the variety and best uses of involvement techniques.

9. Is EPA creating a new public involvement recipe to be followed throughout the Agency

regardless of cost?

No. This policy identifies seven key functions that should be considered when planning for public involvement. How those functions will be carried out depends on particular circumstances, and will require judgment on the part of Agency officials. However, the bias should be for involvement. Agency employees should strive to provide the most meaningful public involvement opportunities appropriate to each situation. The issues; locations; potential environmental and public health impacts of the activities; the potential for controversy; specific needs of the public and the Agency; and other circumstances will influence the design of public involvement processes. The Policy also recognizes the Agency's need to set priorities for its use of resources. It also emphasizes involvement by the public in decisions where options are available and alternatives must be weighed, or where EPA is seeking substantial agreement from the public to carry out a program.

The seven basic functions for effective public involvement in any decision or activity are:

1. Plan and budget for public involvement activities
2. Identify the interested and affected public
3. Consider providing technical or financial assistance to the public to facilitate involvement
4. Provide information and outreach to the public
5. Conduct public consultation and involvement activities
6. Review and use input and provide feedback to the public
7. Evaluate public involvement activities

10. Will EPA implement this Policy among all programs and regions? How?

Yes, all EPA programs and regions will implement this Policy. The "Framework for Implementing EPA's Public Involvement Policy" outlines how. It focuses on developing tools to improve information sharing, training and evaluation. The tools will be tested within EPA and then shared with regulatory partners and communities.

11. Are states and tribes expected to implement the Policy with their delegated programs?

No. The Policy is not binding upon states, tribes and local governments that implement federally delegated, authorized or approved programs.

12. Will the new Policy result in time delays for permitting and policy decisions?

Not overall. In some instances, a compelling need for immediate action may make it appropriate to limit public involvement. However, issues that are not resolved to the satisfaction of the concerned public may ultimately face time-consuming review. If the objectives of EPA's public involvement activities are achieved, delays due to litigation or other adversarial activities may be reduced.

13. Must EPA obtain consensus from all parties before it can make decisions?

No. The Policy encourages EPA staff to seek common ground and reconcile differences where possible when making decisions that fulfill the Agency's mission to protect human health and the environment. However, where this is not possible, EPA will solicit and consider all viewpoints, and then make the necessary decisions according to the Agency's commitments and mandates.

14. I never knew about the 1981 Policy. What happened?

EPA issued the 1981 Policy on January 19, 1981 after a year of consultation. Planned

outreach and training never occurred. In the absence of a central Policy, individual program offices and regions developed their own public participation practices, and knowledge of the 1981 Policy diminished over the years.

15. Why is EPA changing the 1981 Policy and what are the major differences between the 1981 Policy and the new version?

An EPA Workgroup examined the 1981 Policy and found it to be basically sound, needing only to be updated. Public comments supported this conclusion.

The new Policy parallels the old Policy, except that it addresses many changes that have occurred since 1981. These include: EPA's additional responsibilities under new statutes, regulations and Executive Orders; new and expanded public participation techniques; new options for public involvement through the Internet; EPA's emphasis on achieving compliance through partnerships, technical assistance, and public access to information; increased capacity of states, tribes and local governments to carry out delegated programs; new government-wide administrative procedures and public involvement requirements, and the need for evaluation.

In addition, certain parts of the 1981 Policy which were never implemented are not included in the revised version. These include a requirement that EPA programs create public participation plans, and a provision for withholding grant funds from grantees whose public involvement activities are not sufficient.

16. Why should I care about EPA's Public Involvement Policy?

Although most Americans may never seek to become involved in the Agency's decisions, many will want to know that the opportunity exists and that their concerns would be considered. For people who do want to contribute to the Agency's decisions, whether out of interest for their own or their family's health, their community, or on behalf of members of an organization, economic or public interests, the Policy will facilitate their efforts. Full implementation of the Policy will build public trust since EPA staff will be open to all points of view and extend every effort to solicit input from those who will be affected by our decisions. However, the public will also be assured that special interests will not be given privileged status, nor will EPA accept any recommendation or proposal without careful, critical examination.

17. How can I get a copy of the Final Policy?

The Policy is posted on the EPA's web page at: www.epa.gov/publicinvolvement/policy2003.pdf. You can also obtain a printed copy by calling 202-566-2216.

18. What did EPA do with public comments on the draft Policy?

All comments were collected and carefully reviewed. They were considered while staff analyzed options for revising the draft Policy. The Response to Comments document (posted at <http://www.epa.gov/publicinvolvement/responsetocomments.pdf>) displays how the agency dealt with the comments, and created new Public Involvement Policy. After additional internal review, EPA released its Policy.