EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples

Tribal Lands and Environment Forum

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Policy

Issued: July 24, 2014, by Administrator Gina McCarthy

Purpose: To clarify and integrate environmental justice principles in a consistent manner in the Agency’s work with federally recognized tribes and indigenous peoples.

Scope: Federally recognized tribes, state recognized tribes, tribal members, indigenous community organizations, Native Hawaiians, individual Native Americans, and others living in Indian country.
Policy Focuses on Four Areas

1. EPA’s integration of EJ in the direct implementation of federal environmental programs in Indian country, and throughout the United States.

2. EPA’s work with federally recognized tribes/tribal governments on EJ.

3. EPA’s work with indigenous peoples (state recognized tribes, tribal members, indigenous community-based organizations, etc.) on EJ.

4. EPA’s coordination and collaboration with federal agencies and others on EJ issues of tribes, indigenous peoples, and others living in Indian country.
Policy Content

Seventeen (17) Principles - Spread Across the Four Focus Areas

- Direct Implementation (7)
- Engaging Federally Recognized Tribes (3)
- Engaging Indigenous Peoples (4)
- Intergovernmental Coordination (3)

Two Policy components to highlight:
- importance of the articles in the UN Declaration on the Rights of Indigenous Peoples that pertain to the Agency’s work
- Integration of traditional ecological knowledge into Agency’s science, policy and decision-making processes
Direct Implementation Principles – Examples

• being responsive to the EJ concerns of federally recognized tribes, indigenous peoples throughout the United States, and others living in Indian country

• understanding definitions of human health and the environment from the perspective of federally recognized tribes and indigenous peoples

• using legal authorities to advance environmental justice throughout the U.S. and in Indian country (EJ in permitting, EJ in EPA Actions/regulatory development, EJ in NEPA, EJSCREEN, etc.)
Engaging Federally Recognized Tribes – Examples

• affirming the right of the tribal governments to self-determination and acknowledging the federal government’s trust responsibility to federally recognized tribes

• supporting the integration of environmental justice principles and programs into tribal government programs, policies, and activities (i.e. public participation capacity building assistance through the Indian General Assistance Program, EJ Small Grants/Cooperative Agreements, etc.)
Engaging Indigenous Peoples - Examples

• developing and maintaining relationships, having open communication, and providing meaningful involvement opportunities with indigenous peoples and communities

• identifying key points of contact in affected communities to facilitate meaningful involvement and fair treatment on EJ issues, and to better understand the communities

• supporting the use of federal, tribal, and indigenous peoples’ conflict management/dispute resolution processes and traditional consensus building and decision-making practices
Intergovernmental Coordination - Examples

- facilitating discussions among and between government entities with an interest in environmental justice issues affecting federally recognized tribes and indigenous peoples

- encouraging federal agencies and state and local governments to incorporate environmental justice principles into their programs, policies, and activities that may affect tribes and indigenous peoples and others living in Indian country

- collaborating with other federal agencies to leverage resources to better communicate, share information, and address the environmental justice concerns.
Policy Content - Continued

• Accountability
  - Identification of *Environmental Justice Tribal and Indigenous Peoples Advisors (EJ TIPAs)* for each program and regional office

• Definitions - (8) words or phrases defined (EJ, tribes, indigenous peoples, etc.)

• Implementation Tools - (14) tools identified (EJ Legal Tools, EJ in Permitting, etc.)
Use of Terms Federally Recognized Tribes and Indigenous Peoples

• For purposes of this Policy, the definition for “indigenous peoples” does not include federally recognized tribal governments.

• Both Agency leadership and staff, as well as a few tribal governments, expressed concern that federally recognized tribes may be considered no different from all other indigenous peoples if a distinction is not drawn in the Policy.

• Federally recognized tribes are indeed included (generally acknowledged) in international definitions of indigenous peoples.
Policy Development
Initiated in August 2011 and Finalized in July 2014

What we did:

- Held three rounds of tribal consultations
- Held three public comment periods
- Hosted numerous informational meetings and calls with EPA’s NTC, EPA’s RTOCs, tribal organizations and indigenous communities
- Obtained advice and recommendations from the EPA’s NEJAC/Indigenous Peoples Work Group
- Developed Response to Comments Documents and Posted on EPA Web site
How does this Policy Affect EPA’s Working Relationships Within the Agency

- Requires greater coordination and collaboration among the tribal program and EJ program staffs and regional and Headquarters program staff in responding to EJ concerns, and in the development of outreach and engagement efforts with federally recognized tribes and indigenous peoples.

- When EPA is implementing federal environmental programs in Indian country and outside Indian country (i.e. issuing permits, developing records of decision, deciding on enforcement and compliance penalties – developing SEPs, approving water quality standards, etc.)
Within the Agency - Continued

- When EPA is working with tribes to develop and implement federally authorized environmental programs

- When EPA is reaching out to community-based organizations and indigenous peoples to provide technical and financial assistance.

- Each EJ TIPA is working to create a contact list for tribal government officials and indigenous peoples within their region or who have reached out to or expressed an interest in their program. These lists will help EPA effectively engage and work with tribal governments and indigenous communities who are working to address or need assistance with addressing EJ concerns.
The Policy can be found at:

Further information on the Policy can be found at:
http://www.epa.gov/compliance/environmentaljustice/indigenous/index.html
EPA Contacts

Region and Program Offices:
Environmental Justice Tribal and Indigenous Peoples Advisors (EJ TIPA)
- Each program and regional office have an EJ TIPA that was selected by their respective AA and RA.
- A list of the advisors can be found on the Policy website at: http://www.epa.gov/oecaerth/environmentaljustice/indigenous/index.html#tipas

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