



Departmental Regulation on Environmental Justice

U.S. Department of Agriculture
Washington, D.C. 20250

DEPARTMENTAL REGULATION

Number:
5600-002

Subject:
Environmental Justice

Date:
December 15, 1997

OPI:
Natural Resources and Environment

1 PURPOSE

This Departmental Regulation provides direction to agencies for integrating environmental justice considerations into USDA programs and activities in compliance with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations." This Departmental Regulation is a key element of USDA's environmental justice implementation strategy.

2 AUTHORITY

E.O. 12898, dated February 11, 1994, requires each Federal agency, to the greatest extent practicable and permitted by law, to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including social and economic effects, of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. (See Appendix A of this Departmental Regulation for E.O. 12898.)

In addition to the E.O., the President issued a Memorandum for the heads of all departments and agencies, dated February 11, 1994, to underscore certain provisions of existing civil rights and environmental laws (Title VI of the Civil Rights Act of 1964, the National Environmental Policy Act of 1969 (NEPA), The Clean Air Act, the Freedom of Information Act, Government in the Sunshine Act, and the Emergency-Planning and Community Right-to-Know Act) that can help ensure that all communities and persons live in a safe and healthful environment. The President emphasized each agency's duty, in accordance with Title VI of the Civil Rights Act of 1964, to continue to ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin. (See Appendix B of this Departmental Regulation for the Presidential Memorandum.)

3 SCOPE

All existing and future USDA programs and activities are subject to this regulation. Appendix C provides a list of examples of programs related to environmental justice in USDA.

4 DEFINITIONS

a ENVIRONMENTAL JUSTICE means that, to the greatest extent practicable and permitted by law, all populations are provided the opportunity to comment before decisions are rendered on, are allowed to share in the benefits of, are not excluded from, and are not affected in a disproportionately high and adverse manner by, government programs and activities affecting human health or the environment.

b MINORITY means a person who is a member of the following population groups: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic origin; or Hispanic.

c MINORITY POPULATION means any readily identifiable group of minority persons who live in geographic proximity to, and, if circumstances warrant, migrant farm workers and other geographically dispersed/transient persons who will be similarly affected by USDA programs or activities.

d LOW-INCOME POPULATION means any readily identifiable group of low-income persons who live in geographic proximity to, and, if circumstances warrant, migrant farm workers and other geographically dispersed/transient persons who will be similarly affected by USDA programs or activities. Low-income populations may be identified using data collected, maintained and analyzed by an agency or from analytical tools such as the annual statistical poverty thresholds from the Bureau of the Census' Current Population Reports, Series P-60 on Income and Poverty.

e HUMAN HEALTH AND/OR ENVIRONMENTAL EFFECTS as used in this Departmental Regulation includes interrelated social and economic effects.

5 GOALS

USDA's goals in implementing E.O. 12898 are as follows:

a To incorporate environmental justice considerations into USDA's programs and activities and to address environmental justice across mission areas;

b To identify, prevent, and/or mitigate, to the greatest extent practicable, disproportionately high and adverse human health or environmental effects of USDA programs and activities on minority and low-income populations; and

c To provide, to the greatest extent practicable, the opportunity for minority and low-income populations to participate in planning, analysis, and decisionmaking that affects their health or environment, including identification of program needs and designs.

6 IMPLEMENTATION POLICY

a USDA agencies are to ensure that, to the greatest extent practicable, minority and low-income populations do not experience disproportionately high and adverse effects from USDA programs and activities. USDA agencies also

should identify and use opportunities to reach out to such populations and promote USDA programs and activities that positively affect their health and environment.

b Efforts to address environmental justice are not limited to NEPA compliance.

c To the greatest extent practicable, USDA agencies are to work within existing environmental and other programmatic frameworks to ensure environmental justice and participation of minority and low-income

populations in decisions that affect their health or the quality of their environment. This includes, but is not limited to, agencies incorporating environmental justice considerations into their NEPA compliance processes. (See section 8 of this Departmental Regulation.)

d Continual evaluation of the effect of USDA programs and activities on the environment and health of minority and low-income populations is an important component of environmental justice. USDA agencies shall review and revise as necessary agency decisionmaking processes to ensure incorporation and full consideration of the effects that agency decisions may have on minority and low-income populations. For guidance on how to incorporate environmental justice considerations into non-NEPA activities, see section 7 of this Departmental Regulation. For guidance on how to incorporate environmental justice considerations into NEPA compliance, see section 8 of this Departmental Regulation.

e USDA agencies shall develop appropriate criteria consistent with USDA's environmental justice implementation strategy for determining whether the agency's programs and activities have, or will have, a disproportionately high and adverse effect on the health or the environment of minority or low-income populations.

f To the greatest extent practicable, USDA agencies shall collect, maintain, and analyze sufficient data, including, but not limited to, race, national origin, or income level, to determine whether agency programs and activities have disproportionately high and adverse human health or environmental effects, either directly or indirectly, on minority populations and low-income populations. To the degree practicable, agencies shall avoid duplication of data collection and analysis.

g USDA agencies shall, whenever practicable and appropriate, collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fishing, hunting or trapping for subsistence. Agencies shall

communicate with the public the risks of these consumption patterns, including publishing guidance reflecting information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife.

7 ENVIRONMENTAL JUSTICE ISSUE DETERMINATION PROCEDURE

An environmental justice issue arises where conduct or action may involve a disproportionately high and adverse environmental or human health effect on an identifiable low-income or minority population. The determination of whether a particular program or activity raises an environmental justice issue depends on an evaluation of the totality of the circumstances.

In determining whether there are disproportionately high and adverse environmental or human health effects, including social and economic effects, on an identifiable low-income or minority population, agencies should consider, as appropriate, such effects as: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of availability of public and private facilities and services; displacement of persons, businesses, farms, or nonprofit organizations; isolation, exclusion, or separation of minority or low-income individuals within a given community or from the broader community; and the denial, reduction in, or significant delay in the receipt of, benefits of USDA programs or activities. In determining if an effect on a minority and/or a low income population is disproportionately high and adverse, agencies should consider whether the adverse effect is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Appendix D of this Departmental Regulation provides a process useful in the determination of whether a particular program or activity raises an environmental justice issue when the proposed action is not subject to NEPA. Appendix E provides information on incorporating environmental justice into an agency's existing NEPA procedures.

8 NATIONAL ENVIRONMENTAL POLICY ACT

a E.O. 12898 requires that in complying with NEPA agencies shall--

(1) Analyze the environmental effects of proposed Federal actions, including human health, economic, and social effects on minority and low-income populations;

(2) Whenever feasible, identify mitigation measures that reduce significant and adverse environmental effects of proposed Federal actions on minority and low-income populations;

(3) Provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices; and

(4) When reviewing NEPA documents, ensure that the agency preparing NEPA analyses and documentation has appropriately analyzed environmental effects on minority and low-income populations, including human health, social, and economic effects.

b The compliance procedures associated with NEPA provide USDA agencies a significant opportunity to integrate environmental justice considerations into NEPA compliance procedures.

c The requirements of E.O. 12898 and this Departmental Regulation must be met, even if an agency's activities are categorically excluded from the preparation of an Environmental Assessment or an Environmental Impact Statement, or the agency is excluded from the requirements of preparing procedures to implement NEPA 7 CFR Part 1b. (See section 7 of this Departmental Regulation.)

d The public participation requirements of E.O. 12898 must be met, even in cases where agencies do not make provision for early public participation in an environmental assessment.

e USDA agencies, except those agencies excluded by 7 CFR 1b.4, shall draft such guidance as needed to incorporate environmental justice considerations into the relevant stages of the NEPA process. Such guidance should be tailored to the agency's specific needs. Appendix E illustrates how environmental justice considerations can be integrated into the steps of the NEPA process.

f Agencies should ensure that all employees who work with NEPA receive training in order to fully understand the opportunities NEPA provides to consider environmental justice.

9 OUTREACH

a As part of ensuring the integration of USDA's environmental justice strategy, agencies shall develop outreach activities including, where appropriate and necessary

(1) Developing an inventory or database consisting of community, professional, and technical resources to assist agencies in developing effective environmental justice activities, and sending indexes of the information to the National Agricultural Library;

(2) Identifying interagency responsibilities for areas with environmental justice implications and working cooperatively within the Department as well as with other Federal departments (such as the Department of Health and Human Services and Department of Commerce) and agencies and State, tribal, and local units of government;

(3) Seeking assistance, services, and products from 1890 Land-Grant colleges and universities, Historically Black Colleges and Universities, the Hispanic Association of Colleges and Universities, the Tribal Colleges, as well as other educational institutions to support USDA environmental justice activities; and

(4) Seeking out and communicating with populations affected by USDA programs and activities using outreach efforts, such as those identified in USDA's environmental justice implementation strategy . (See Appendix C of this Departmental Regulation.)

b For the purposes of this section, Tribal government means the recognized government of an Indian Tribe and any affiliated or component Band government of such Tribe that has been determined eligible for specific services by Congress or officially recognized by inclusion in 25 CFR Part 83.

10 EVALUATION AND REPORTING

a As part of the process for evaluating its environmental justice implementation, each agency shall, consistent with USDA's environmental justice implementation strategy--

(1) Establish performance measures consistent with the Government Performance and Results Act (GPRA) for environmental justice activities; and

(2) Incorporate environmental justice principles and objectives into periodic reviews, assessments, and evaluations of programs and activities.

b Additionally, agency heads shall report annually to the Under Secretary for Natural Resources and Environment and the Environmental Justice Steering Committee (sec. 12) on their practices and accomplishments in ensuring compliance with E.O. 12898 and this Departmental Regulation. The annual report shall at a minimum include

(1) Information describing agency plans, procedures, or criteria adopted for integrating consideration of environmental justice into agency programs and activities in the previous year;

(2) The identification of new and innovative approaches, methods, or examples of successful consideration of environmental justice; and

(3) Recommendations for improvement or adjustment in USDA's environmental justice implementation strategy, policies, or actions.

Unless otherwise instructed, agencies may fulfill these requirements through their GPRA annual performance reports or their annual civil rights reports, as appropriate.

11 DEPARTMENTAL REGULATIONS

The Departmental Regulation governing the preparation of Civil Rights Impact Analyses (DR 4300-4) is to be revised to require that Civil Rights Impact Analyses include a finding as to whether proposed or new actions have or do not have a disproportionately high and adverse effect on the human health or the environment of

minority populations, and whether such effects can be prevented or mitigated. The Departmental Regulation governing the preparation and processing of codified regulations (DR 1512-1) is to be revised to require that proposed and final documents include a finding as to whether proposed or new actions have or do not have a disproportionately high and adverse effect on the human health or the environment of minority or low-income populations, and whether such effects can be prevented or mitigated.

The Environmental Justice Steering Committee (section 12) shall ensure a review of the USDA NEPA regulations at Title 7 of the Code of Federal Regulations to determine if revisions are needed.

12 RESPONSIBILITIES

a Under Secretaries and Assistant Secretaries

Under and Assistant Secretaries shall ensure that agency heads under their jurisdiction implement USDA's environmental justice implementation strategy within their agencies and fully comply with the requirements of E.O. 12898 and this Departmental Regulation.

b Agency Heads

The head of each USDA agency shall--

(1) Ensure that the requirements of USDA's environmental justice implementation strategy are integrated into the agency's programs and activities and ensure the agency fully complies with E.O. 12898 and this Departmental Regulation;

(2) Develop an individual agency environmental justice implementation strategy; and

(3) Appoint an agency environmental justice coordinator who shall serve as the point of contact within the agency on environmental justice matters and oversee the development of an environmental justice implementation strategy within the agency.

c Under Secretary for Natural Resources and Environment

The Under Secretary for Natural Resources and Environment has the overall leadership responsibility for ensuring implementation of E.O. 12898 and compliance with this Departmental Regulation.

This responsibility includes--

(1) Reviewing the annual environmental justice reports of agencies and preparing the annual USDA report on environmental justice;

(2) Evaluating the adequacy and effectiveness of environmental justice procedures of agencies with the advice of the Environmental Justice Steering Committee (See paragraph d of this section);

(3) Coordinating environmental justice matters with the Executive Office of the President and other Federal agencies with the advice of the Environmental Justice Steering Committee;

(4) Appointing an Environmental Justice Coordinator for the Department who shall serve as a focal point for environmental justice training, outreach, and intradepartmental coordination; and

(5) Establishing a clearinghouse to collect and share information and field experience for the purpose of assisting USDA agencies in integrating environmental justice into their programs and activities.

d Environmental Justice Steering Committee

The Steering Committee serves in an advisory capacity to the Under Secretary for Natural Resources and Environment on USDA's compliance with E.O. 12898 and effectiveness in addressing environmental justice issues.

The Committee consists of the Under Secretary for Farm and Foreign Agricultural Services, Under Secretary for Food, Nutrition, and Consumer Services, Under Secretary for Food Safety, Under Secretary for Research, Education, and Economics, Under Secretary for Rural Development, Assistant Secretary for Administration, Assistant Secretary for Marketing and Regulatory Programs, Director of the Office of Civil Rights, Director of Sustainable Development, Director of Native American Programs, and agency heads selected by the Under Secretary for Natural Resources and Environment. The Committee shall meet at least twice annually.

The Committee shall establish an environmental justice NEPA working group to assist agencies with the integration of environmental justice into NEPA procedures, including sponsoring and/or organizing Department-wide and public workshops. The Committee also shall establish a working group to assist agencies that are excluded from NEPA procedures with the integration of environmental justice into their programs and activities.

The Under Secretary for Natural Resources and Environment shall chair the Steering Committee. The Environmental Justice Coordinator shall serve as staff to the Steering Committee and shall arrange meetings, agendas, and recordkeeping. Under and Assistant Secretaries may designate their deputies to represent them on the Steering Committee.

e Assistant Secretary for Administration, Office of Civil Rights

Notwithstanding the environmental justice responsibilities assigned to the Under Secretary for Natural Resources and Environment, the Director of the Office of Civil Rights retains authority and responsibility for USDA compliance with and enforcement of all civil rights laws and regulations.

13 JUDICIAL REVIEW

This Departmental Regulation is intended only to improve the internal management of USDA and is not intended to, nor does it, create any substantive or procedural right or benefit enforceable at law or equity by a party against USDA, its agencies, instrumentalities, officers, employees, or any other person. Additionally, this Departmental Regulation shall not be construed to create any right to judicial review involving the compliance or noncompliance of the USDA, its agencies, instrumentalities, officers, or any other person with this Departmental Regulation.

-END-

APPENDIX A

EXECUTIVE ORDER

FEDERAL ACTIONS TO ADDRESS

ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1-1. Implementation.

1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. Creation of an Interagency Working Group on Environmental Justice. (a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an interagency Federal Working Group on Environmental Justice ("Working Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor, (e) Department of Agriculture, (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior, (i) Department of Commerce; (j) Department of Energy, (k) Environmental Protection Agency, (l) Office of Management and Budget, (m) Office of Science and Technology Policy-, (n) Office of the Deputy Assistant to the President for Environmental Policy, (o) Office of the Assistant to the President for Domestic Policy, (p) National Economic Council; (q) Council of Economic Advisers; and (r) other such Government officials as the President may designate. The Working Group shall report to the President through the Deputy through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1- 103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development and other agencies conducting research or other activities in accordance with section 3-3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5-502(d) of this order, and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. Development of Agency Strategies. (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, or activities on minority populations and low-income populations. The environmental justice strategy shall first programs, policies, planning and public participation practices, enforcement and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12-month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group.

1-104. Reports to the President. Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1- 103 (e) of this order.

Sec. 2-2. Federal Agency Responsibilities for Federal Programs. Each Federal agency shall conduct its programs, policies, and activities that substantially effect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3-3. Research, Data Collection, and Analysis.

3-3 0 1. Human Health and Environmental Research and Analysis. (a) Environmental human health

research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practicable and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.

(b) In connection with the development and implementation of agency strategies in section 1- 103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law: and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with States, local, and tribal governments.

Sec. 4-4. Subsistence Consumption of Fish and Wildlife.

4-40 1. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain and analyze information on the consumption patterns of populations principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risk of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. Public Participation and Access to Information. (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices and hearings relating to human health or the environment for limited English-speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the contents and recommendations discussed at the public meetings,

Sec. 6-6. General Provisions.

6-601. Responsibility for Agency Implementation. The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. Executive Order No. 12250. This Executive Order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. Executive Order No. 12875. This Executive Order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. Scope. For the purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially effects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. Petitions for Exemptions. The head of a Federal agency may petition the President for an exemption from

the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities

should not be subject to the requirements of this order.

6-606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian tribes.

6-607. Costs. Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. General. Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order.

WILLIAM J. CLINTON

THE WHITE HOUSE

February 11, 1994.

APPENDIX B

February 11, 1994

CITE: 30 Weekly Comp. Pres. Doc. 279

HEADLINE: Memorandum on Environmental Justice

HIGHLIGHT: Memorandum for the Heads of All Departments and Agencies

BODY:

Subject: Executive Order on Federal Actions To Address Environmental Justice in Minority

Populations and Low-Income Populations

Today I have issued an Executive order on Federal Actions to Address Environmental justice in Minority Populations and Low-Income Populations. That order is designed to focus Federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice. That order is also intended to promote nondiscrimination in Federal programs substantially affecting human health and the environment, and to provide minority communities and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.

The purpose of this separate memorandum is to underscore certain provision of existing law that can help ensure that all communities and persons across this Nation live in a safe and healthful environment. Environmental and civil rights statutes provide many opportunities to address environmental hazards in minority communities and low-income communities. Application of these existing statutory provisions is an important part of this Administration's efforts to prevent those minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.

I am therefore today directing that all department and agency heads take appropriate and necessary steps

to ensure that the following specific directives are implemented immediately:

In accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.

Each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by the National Environmental Policy Act of 1969 (NEPA), 42 U.S. C. section 4321 et seq. Mitigation measures outlined or analyzed in an environmental assessment, environmental impact statement, or record of decision, whenever feasible, should address significant and adverse environmental effects of proposed Federal actions on minority communities and low-income communities.

Each Federal agency shall provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices.

The Environmental Protection Agency, when reviewing environmental effects of proposed action of other Federal agencies under section 309 of the Clean Air Act, 42 U.S. C. section 7609, shall ensure that the involved agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social, and economic effects.

Each Federal agency shall ensure that the public, including minority communities and low-income communities, has adequate access to public information relating to human health or environmental planning, regulations, and enforcement when required under the Freedom of Information Act, 5 U.S. C. section 552, the Sunshine Act, 5 U. S.C. section 552b, and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11044.

This memorandum is intended only to improve the internal management of the Executive Branch and is not intended to nor does it create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

/s/ William J. Clinton

APPENDIX C

PROGRAM INITIATIVES WITHIN USDA RELATED TO

ENVIRONMENTAL JUSTICE

The following are examples of USDA programs, policies, planning, public participation, enforcement, and rulemaking activities related to environmental justice within USDA, organized by the four categories identified in Executive Order 12898. Material in this appendix is derived from the USDA Environmental Justice Implementation Strategy adopted March 24, 1995.

1. Promote enforcement of all health and environmental statutes in areas with

minority populations and low-income populations.

USDA complies with Title VI of the Civil Rights Act of 1964 to ensure that all programs or activities receiving Federal financial assistance from USDA do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin. In addition, USDA regulations prohibit discrimination on the basis of race, color, religion, sex, disabilities, age or national origin in programs and activities in which USDA agencies make benefits available directly to the public. The Department conducts the following activities:

National program reviews to identify and eliminate discrimination in program delivery.

+ Data collection on program participation rates of socially disadvantaged producers.

+ Assessments of changes to food assistance programs to determine if barriers prevent diverse groups from participation.

+ Agreements entered into by USDA agencies include standard clauses designed to prevent discrimination.

+ Facility pollution prevention plans first evaluate collection, maintenance, and analysis of information of the race, national origin, income level, and other information for areas surrounding Federal facilities where the facilities are expected to have a substantial environmental, human health, or economic effects on surrounding populations.

+ Compliance with the National Environmental Policy Act (NEPA) ensures consideration and analysis of the effects of natural resource decisions on the human environment. USDA policy and procedures for NEPA compliance require that effects on population sectors be considered.

+ Members of peer panels convened for reviewing and ranking competitive research grant proposals are selected based upon their training and experience in relevant scientific fields and the need to maintain a balanced membership (e.g., assure that the views of minorities and women are represented).

USDA's enforcement of human health and environmental laws include memoranda of understanding and intergovernmental agreements with Indian tribes, educational institutions, State agencies, and Federal agencies such as Environmental Protection Agency (EPA), Department of Labor (DOL), Department of Defense (DOD), Department of Energy (DOE), Health and Human Services (HHS), and Food and Drug Administration (FDA). Examples include: Memorandum of Agreement (MOA) with the U.S. Army Corps of Engineers and the Tennessee Valley Authority to establish a source of technical assistance for environmental cleanup on property held in USDA inventory.

Interagency agreement with the Bureau of the Census to conduct a nationally representative survey of the U.S. population as a supplement to the Current Population Survey. The survey will measure, for all income groups, the extent of hunger and food insecurity in the United States. USDA will use the information to improve the design of nutrition assistance programs for low-income Americans.

Cooperative agreement with the University of New Mexico to conduct a "Limited

Resource Farmer and National Resource Inventory Special Study." Data will be used to more accurately define "limited resource farmer" and to investigate reasons for their lack of participation in USDA programs.

Interagency agreement with HHS to create a rural health information clearing house, designed to collect and

disseminate information on rural health issues, research findings related to rural health, and innovative approaches to the delivery of rural health care services, financing, and the health status of rural Americans and American Indians.

Cooperative agreement with an 1890 institution to evaluate the effectiveness of intervention methods to improve the quality and well-being of the rural elderly in the South.

Memorandum of Understanding (MOU) with DOE to study options for the environmental cleanup and rehabilitation of former commodity (grain) storage sites, which became contaminated through repeated applications of pesticides and other chemical treatments.

Cooperative agreements with state agencies - including health departments - to participate in pest eradication efforts, which involve evaluation and communication of health risks due to pesticide application.

Cooperative agreements with individual U.S. tribal organizations, tribal enterprises, and the established inter-tribal organizations to conduct export promotion activities for tribal agricultural products, which include range fed beef, buffalo meat, and seafood products from the reservations.

MOU with six American Indian tribes for work on Indian lands and cooperative agreements with 26 towns and cities for providing technical assistance on animal damage control.

Providing funds to the National Coalition to Restore Urban Waterways to members of the Minority Environmental Association in six cities.

Supporting a project with the Minority Environmental Association in Cleveland to test water quality in minority and poor communities. Provide support to a minority and rural housing area in North Carolina for installation of a clean water supply.

2. Ensure greater public participation

USDA has a long tradition of conducting effective outreach and education efforts focusing on minority populations at national, regional, state and local levels, including cooperative efforts with:

- 1890 Colleges, Land Grant Universities, and other historically Black colleges and universities (HBCUs),
- the Hispanic Association of Colleges and Universities,
- Intertribal National University and other Tribal Nations,
- support for Employee Resource Groups (African American, Hispanic, Asian Pacific), and
- constituent groups and USDA county and advisory committees.

USDA uses a variety of processes and mechanisms to receive public input:

- + Conservation Review Groups (including USDA, other government, and stakeholder representatives) at the local, county, state, and national levels review conservation policies.

+ Public comments are solicited through the rulemaking process in national hearings, and suggestions are considered in the design and implementation of new or revised program and rulemaking activities.

+ As required by the Government Performance and Results Act of 1993, USDA collects information from the public, producers, and other program participants through customer service surveys and interviews. This information is used to measure customer satisfaction with USDA programs and implementation and to revise or re-engineer existing policies, rules, regulations, procedures, and business processes on an as needed basis.

+ USDA agencies have specific programs and procedures in place to comply with the requirements -under National Environmental Policy Act (NEPA) for public participation in agency decisionmaking. The NEPA process alerts the public of the likely environmental (including health and safety) effects of proposed agency programs before they are approved and implemented. The NEPA environmental impact statements and environmental assessments are made available to the public in a variety of ways - local newspaper announcement, published in foreign languages, and Telecommunication Device for the Deaf (TDD).

+ USDA has a tradition of direct, frequent communication in forums and with established, formal committees of stakeholders.

+ Development of ecosystem management policies affecting national forests involves grassroots participation by communities and industries. Because ecosystems cross boundaries, USDA's Forest Service cooperates with other landowners on a voluntary basis and is working with rural communities to develop local natural resource-based economies that support sustainable ecosystems.

+ Advisory boards provide input into USDA's research planning and program development, including issues related to environmental justice. In FY 1994, USDA had sixty-eight federal advisory committees. Thirty-eight committees are required by statute and twenty-one are authorized by statute. A wide variety of stakeholders participate in advisory committees providing an ongoing source of public input on USDA programs.

+ The Cooperative State Research, Extension, and Education Service (CSREES) receives public input through program committees at the state and local levels and from other agencies at the state and national level.

+ USDA's integrated pest management (IPM) strategies provide for state and local involvement in priority setting for research, education, and regulatory controls.

USDA also places heavy emphasis on outreach activities to help ensure public participation in planning and rulemaking processes as well as program delivery:

+ The Women, Infants, and Children (WIC) Program provides services to over 100,000 American Indian women, infants and preschool children through States and thirty-three American Indian Tribal Organizations which provide WIC services within their tribal areas. In April 1992, approximately 60 percent of all American Indian infants in the U.S. participated in the WIC Program.

+ USDA participates in government-wide programs to increase the participation of small and disadvantaged businesses (including minority and women-owned firms) in contracting and procurement programs.

+ USDA uses PASS (Procurement Automated Source System), a computerized directory of over 196,000 small businesses, and other sources to identify potential minority and women-owned firms for participation in USDA loan programs.

+ USDA administers an Outreach and Assistance Program for Socially Disadvantaged Farmers and Ranchers by establishing goals for program participation rates on a State-by-State and county-by-county basis.

+ USDA's Agricultural Conservation Program provides for cost sharing (up to 50 percent of the average cost of performing practices) for low-income farmers and ranchers who want to improve their conservation practices.

+ Local program officials meet regularly with public and private officials on issues such as community development, housing, and farm activities in rural areas and how to target USDA programs to targeted populations.

+ Through the Extension Service:

-- Indian Reservation Agents programs are located at 28 tribal reservations, which work with youth and adults in home economics, human nutrition, resource development, and agriculture.

-- The Expanded Food and Nutrition Education Program delivers information through educational programs for low-income citizens to improve their diet and nutrition.

-- The 1890 Land Grant Institutions, the Hispanic American Colleges and Universities, and many others in the Land Grant System have programs that target small and low-income farm producers to provide them with the expertise to become sustainable enterprises.

-- Worker protection programs in Spanish and other languages have been developed to train migrant and resident farm workers.

--Special efforts have been made to reach non-English speaking minorities through publications and multi-media programs in several languages in the areas in which they are needed.

+ USDA technology transfer programs give special emphasis to disadvantaged groups. Approximately 55 percent of USDA patent licenses and 53 percent of currently active Cooperative Research and Development Agreements are with small, minority owned, female-owned, or rural area businesses.

+The 1890 Capacity Building Grants Program strengthens the 1890 Land Grant institutions in agricultural research and related activities. USDA is initiating a parallel program to strengthen universities that traditionally support Hispanic

communities and plans to launch a third parallel program to support Tribal colleges.

+USDA established a National Center for Diversity located at Kentucky State University, which provides training and education that will enhance diversity and pluralism within the Cooperative Extension System. The Center maintains a resource database, conducts surveys and provides training and consulting to the Extension Service stakeholders throughout the county.

+ USDA operates consolidated county suboffices at the Tribal headquarters in each county having a reservation within its borders.

+USDA responds to research needs of industrial and field workers, such as byssinosis avoidance through cotton dust control, grain dust reduction, and safe pesticide application technology.

+USDA conducts research to describe the degradation of pesticides and other chemicals, thereby contributing to safe handling procedures. Since many farm workers who handle pesticides are minorities, well-designed safe handling procedures better ensure worker safety.

+USDA has established Centers of Excellence at 1890 Institutions to provide a USDA presence on campus and enhance the ability of the institution to deliver programs. A National Scholars Program provides scholarships and employment opportunities for college students at the 1890 Land Grant Institutions. The Summer Intern Program provides employment opportunities for high school juniors and seniors to increase minority participation in agriculture, forestry, home economics, and related fields.

+National Agricultural Statistics Service, in collaboration with USDA Forest Service, has also provided funding for an annual "Dream Warrior" Math and Science Camp sponsored by the Indian Resource Development Program to teach American Indian high school students the importance of math and science in many different careers, including those dealing with agriculture.

Detailed examples include:

USDA sponsored four regional hunger forums during 1994 where program participants, farmers, state case workers and advocates described the benefits and frustrations of the Food Stamp Program and other programs. USDA held a series of national minority round tables to examine nutrition issues affecting minority populations and to discuss the implementation of Women, Infants, and Children (WIC) program.

Consistent with the National Environmental Policy Act, USDA Animal and Plant Health Inspection Service (APHIS) considers the affected public in its Mediterranean fruit fly (Medfly) Cooperative Eradication Program. The program has included the use of chemical controls in suburban, urban, or rural areas. APHIS establishes telephone hotlines staffed with English and non-English speaking personnel (depending upon the demographics) to handle inquiries about the program. Residents and businesses are notified of control activities through a multi-lingual communications effort including door-to-door contact, local newspapers, and radio announcements. Fields are also posted to notify farm workers. Chemically sensitive individuals are given special consideration. Some States maintain registries of chemically sensitive individuals, and through these registries, APHIS can provide notice to registrants who could be affected by its activities.

Three USDA agencies -- the Cooperative State Research, Education, and Extension Service, Forest Service, and Natural Resources Conservation Service are working together in the Urban Resources Partnership. These agencies are collaborating with other federal agencies and state and local governments, and public and private organizations to provide grants and technical assistance to minority and low-income urban communities. The program's goal is to accomplish urban ecosystem conservation through locally driven initiatives with grass roots support. To date, \$6 million has been allocated to 8 cities to assist urban residents.

The 1995 Urban Earth Day will be co-sponsored by Natural Resources Conservation Services and the Minority Environmental Association. Urban Earth Day is the first Earth Day festival organized to highlight and education about the environmental issues affecting people of color and the poor.

3. Improve research and data collection relating to the health of and environment of minority populations and low-income populations

A large proportion of USDA resources are devoted to research on production agriculture, economics, and nutrition. USDA has accomplished significant research related to environmental justice, as the following examples illustrate. USDA research underway or partially completed includes:

- + Natural Resources Conservation Services has a cooperative agreement with Tuskegee University to conduct a study and provide guidelines and recommendations for implementation of the environmental justice policy.

- + A study of minority and women producers in Southern states (to be completed in FY 1995) that will review - (1) their participation rates in Agency programs; (2) their average base acreage and yields; and (3) their rates of election to the County Committees. The results will be compared to the rates for other producers to determine any disparities and to target potential corrective actions.

- + Various studies on telecommunications and its impact on rural America.

- + A scientific evaluation of Women, Infants, and Children nutrition risk criteria by the National Academy of Sciences, Institute of Medicine, Food and Nutrition Board. The final report is due in September 1995.

- + USDA initiatives under the President's Plan for the Pacific Northwest include studies on the effects of the plan on population sectors that include minorities, low-income, and American Indians. Those studies include: the East-Side Study, Pac-Fish, Columbia River Basin Assessment.

- + The Economic Research Service (ERS) programs include data collection and analysis on chemical use in agriculture and safety measures farm operators should provide workers who are engaged in chemical application activities.

- + USDA's ERS studies the differences in exposure to chemical toxins between metro and nonmetro areas, and the link of toxins to employment opportunities in metro versus nonmetro areas.

- + Scientific research is being conducted on body growth and nutrition of white, Hispanic and African American babies. Agricultural Research Service has pioneered in the research area of body fat distribution among various ethnic populations. Information on the nutrient/gene relationships in diverse populations will enable USDA to better form nutrient recommendations for individuals and groups.

- + The USDA Agricultural Research Service (ARS) in partnership with five research universities in Mississippi, Louisiana, and Arkansas began the Lower Mississippi Delta Nutrition Intervention Research Initiative to apply state-of-the-art nutrition research tools to solve nutrition problems within the Delta and to contribute to the future health and well-being of the citizens of the region.

- + USDA county offices maintain a confidential automated file containing information on the race, sex, and ethnicity of participation rates for Title VI compliance purposes and for other reporting requirements, including the biennial report to Congress required by Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 USC 2279).

- + Property Environmental Tracking System (PETS) is a database system used to track the agencies' properties where hazardous waste investigation have been conducted or underground storage tanks have been found. Other information includes the disposition of the property.

- + USDA Rural Utilities Service (RUS) collects racial/ethnic data on its recipients annually. The data show the racial make-up of the borrowers' service area by providing information on both the "served" and "unserved" residences. Information is used to identify compliance review sites.

- + USDA National Agricultural Statistics Service (NASS) and the USDA Agriculture Marketing Service develops and maintains an agricultural chemical use database used in the Pesticides Data Program. The database

provides statistically reliable state-level information on pesticides and fertilizers used on most food crops and field crops in the major producing states. This information is shared and available to the public.

+ The USDA Economic Research Service (ERS) has many data sets on the environment; pesticide use in agriculture; land, water, and conservation; rural population and demography; and rural economics as well as the modeling and geographic information system tools needed to use these data sets to address environmental issues in agriculture and rural America.

+ CSREES in partnership with Florida A & M University is completing a database of minority and women scientists to facilitate cultural diversity of scientific activities, such as peer review panels, program review teams and advisory committees.

+ School Nutrition Dietary Assessment Study, 1993

+ Evaluation of the Food Distribution Program on Indian Reservations, Final Report, 1990

+ National WIC Evaluation, 1986

+ Food Stamp Program Participant Characteristic Studies WIC Participant and Program Characteristics Studies: 1984, 1988, 1990, 1992

+ Review of WIC Nutritional Risk Criteria, 1991

+ Estimates of Persons Income Eligible for WIC in 1989: National and State Tables; County Tables

+ Socially Disadvantaged Farmers and the Natural Resource Conservation Service, 1994

+ Socially Disadvantaged Clientele of the Soil Conservation Service: A Market Research Report, 1994

+ Identification of the Limited Resource Farmers Through the Utilization of the National Resource Inventory Data and Incentives for the Limited Resource Farmers to Adopt NRCS Programs, April 1994

+ Rural Entrepreneurship and Small Business Development, QB93-38, 1993

+ Rural Industrialization, QB94-30, 1994

+ Rural Youth Employment, RICPS 30, 1993

+ Health Care in Rural America, QB94-08, 1994

+ Native American Health Care, QB93-40, 1993

+ Rural-America's Elderly, QB93-36, 1993

+ Hazardous and Toxic Waste Management, QB93-59, 1993

+ Information Access in Rural America, QB94-39, 1994

- + Native American Natural Resource Management, QB-39, 1993
- + Population Migration in Rural America, QB93-35, 1993
- + Poverty in Rural America, QB94-01 Retirement Communities, RICPS 23, 1993
- + Alternatives to Waste Disposal, RICPS 14, 1992
- + Crime in Rural America, QB94-09, 1994
- + Rural Education, QB92-15, 1992

4. Identify differential patterns of consumption of natural resources among minority populations and low-income populations.

+ CSREES collects, maintains and analyzes information on the consumption pattern of populations who principally rely on fish and wildlife for subsistence. This information is communicated to the public regarding health risks of consumption patterns, e.g., University of Alaska educational programs for native Alaskans. The State Cooperative Extension Service publishes guidelines reflecting the latest scientific information available concerning methods of evaluating human risks, if any, associated with the consumption of pollutant-bearing fish or wildlife. Fact sheets and bulletins are disseminated through the Extension service delivery system to appropriate target populations.

+ USDA's NASS and the Intertribal Agricultural Council established a formal agreement and funding to conduct a pilot agricultural statistics survey in the summer of 1994 for all tribes and reservations in the State of Montana. The major data needs are number, size, and type of farm; crop area estimates; cattle, sheep, and horse inventories. In summary, this study identifies management solutions to the deficiencies in the agricultural statistics profile of American Indian. Substantial new management, attention, action, and resource allocation to improve the agricultural statistics profile for American Indian farms and ranches has begun.

+ USDA is committed to establish and promote environmental justice goals relevant to minority and low-income populations affected by all agency programs. County committee approvals of individual applications for program participation have the most potential for disproportionate adverse effects on minority and low-income populations. Over 40,000 of these decisions are made on an annual basis by the more than 2,800 Consolidated Farm Services Agency county offices and committees. USDA recently established procedures to assure minority representation on the county committee in any county in which the percentage of minority producers is five percent or more. In such counties (or communities), when a representative of a minority group has not been officially appointed to the committee, the committee is required to appoint a "minority advisor" to represent the views of the minority population in the county or community.

+ A USDA Forest Service National Resource Book on American Indian and Alaska Native relations working draft, which will be released in April, 1995, will provide guidance for the Agency in working with American Indian Tribes regarding their special governmental status, culture, treaty or other statutory interests and rights and is expected to expand development of cooperative relationships so that Tribes have an opportunity to be included in the USDA Forest Service cooperative and resource forestry programs.

+ USDA's Limited Resource Farmers' Initiative encourages socially disadvantaged individuals to enter and continue farming. In 1994, approximately \$3 million was allocated to the 1890 institutions to provide training to small farmers to do a better job of management and to understand what USDA services are available and how to take advantage of these services. USDA is conducting small farmer town hall meetings

to address marketing, customer service, risk management strategies, and technical and financial assistance. USDA is currently working to establish an Incubator Farm Initiative which would allow for the training of young aspiring farmers and would review policy documents for the purpose of identifying language that present barriers to program participation by small farmers.

APPENDIX D

NON-NEPA ENVIRONMENTAL JUSTICE ISSUE DETERMINATION PROCEDURE

For those programs or activities not subject to the National Environmental Policy Act (NEPA) the process of determining whether an environmental justice issue exists and, if so, what agency action is appropriate should include, but is not limited to, the following steps.

Step 1: Identify the agency program or activity;

Step 2: Determine if proposed program or activity is the type that might have an adverse environmental or human health effect on any population. If not, the environmental justice issue determination is complete. If a determination is made that the program or activity has a potential for adverse environmental or human health effect on any population, continue to

Step 3;

Step 3: Identify interested and affected parties;

Step 4: Initiate community outreach to affected and interested parties (for example notification by public announcement and/or contact with community and civic organizations) and encourage participation and input on the proposed program

or activity and any alternatives or mitigating options;

Step 5: Apply developed criteria to evaluate information gathered from outreach initiative along with all other information used in decisionmaking process and analyze the effects of proposed program or activity and the effects of alternate or mitigating actions. If a determination is made that the proposed program or activity has, or will have a disproportionately high and adverse effect on the human health or the environment of minority or low-income populations, go to Step 6. If not go to Step 7;

Step 6: Consider the feasibility and appropriateness of alternatives or mitigating options and their effects;

Step 7: Notify interested and affected parties of agency decision;

Step 8: Assess effectiveness of outreach initiatives.

APPENDIX E

NARRATIVE FOR ENVIRONMENTAL JUSTICE AND NEPA FLOWCHART

The Environmental Justice and NEPA Flowchart has, been prepared to identify where and how in the NEPA process environmental justice issues can be addressed, if appropriate. The Draft CEQ Guidance for Environmental Justice under NEPA (April 4, 1997), contains additional suggestions and should also be consulted.

Note that the flowchart portrays a typical Environmental Impact Statement (EIS) process. Some USDA agencies use this same process in the preparation of an environmental assessment (EA) and should therefore use this flowchart when conducting EAs. Those agencies that do not use this process in the conduct of their EAs will need to adapt this flowchart to fit their EA process.

1. Define action, purpose, need and area of potential effect. The action proposed by the agency should be clearly defined so that interested parties understand what is being proposed. The agency should identify the purpose of the action and provide justification as to why the action is needed. The area of potential concern should be defined (i.e., physical boundary of area reasonably expected to be affected by the action) so that the agency can include all of the minority and low-income populations within this area in all of its outreach efforts.

2. Initiate scoping. Consideration of potential environmental justice concerns should begin with this step of the NEPA process. Any minority populations and low-income populations located within the potentially affected area should be identified.

Once the potentially affected parties have been identified, it will be important to communicate with and understand the concerns of these groups. All interested and/or affected parties should be notified of the proposed action. Notification should be accomplished by such means as publishing notices in local newspapers, including those read by potentially impacted low-income and minority groups, and by sending notices out to elected officials, civic organizations, religious organizations, superintendents of schools, local PTAs and other community organizations that can help to facilitate outreach. Announcements should also be made through such vehicles as local radio and television stations and newspapers. Broadcasts and publications made in languages other than English can be particularly helpful in communicating with non-English speakers.

USDA agencies should find creative and meaningful ways to facilitate access of information about the proposed action and the NEPA process to potentially affected minority and low income populations. Outreach possibilities would include organizing public meetings at a time and place that is convenient for the potentially affected communities, scheduling meetings with elected officials and/or community organizations, and publishing a newsletter to keep people informed.

The participation of interested or affected parties should be encouraged during scoping as well as throughout the entire NEPA process. Documents, meetings, personal contacts, and written correspondence should be translated to facilitate participation by persons who do not speak or understand English. Such translations pertain to each of the steps that follow.

3 Define range of alternatives to be evaluated. In cases where a proposed action might have a disproportionately high and adverse impact on minority or low income populations, agencies should make a strong effort to encourage members of those communities to help develop and comment on possible alternatives. Efforts would include organizing meetings to facilitate public input on the alternatives.

4. Analyze effects of preferred and alternative actions on the quality of the human environment. Include an analysis of the extent to which minority and/or low income populations might be disproportionately affected. The analysis should include potential impacts to subsistence consumption and human health as well as the related economic and social effects of each alternative.

5. Develop mitigation to offset or ameliorate adverse effects. The concerns and suggestions of potentially affected minority and/or low-income populations should be carefully considered in the development of mitigation measures. Once mitigation measures have been developed there should be follow-up to ensure they are implemented and are effective.

6. Where applicable, notify interested or affected parties of the availability of draft NEPA documents and encourage comment. The draft provides an important opportunity to demonstrate how concerns raised during the scoping process have been considered in the development of alternatives and to encourage additional input.

7. Where applicable, notify interested or affected parties of availability of final NEPA documents and encourage comments. Demonstrate how concerns with the draft NEPA document have been addressed and address any additional concerns raised before publishing a Record of Decision (ROD) or Decision Notice (DN). Concerns identified at this time should be incorporated and addressed in the ROD or DN.

8. Notify interested or affected parties of agency decision. Notification should include all parties contacted during the scoping process and those who provided comment on the draft or final NEPA document. Agencies are encouraged to meet with any affected populations to discuss and answer questions about the actions planned.

9. Assess effectiveness of outreach. How did we do? Agencies are encouraged to evaluate their outreach efforts to minority and low-income communities and to determine whether the outreach should be modified for future projects. This is also an important time to determine whether the NEPA process was explained to the community in a way that facilitated its participation and, if not, to determine how to do a better job in future projects.

Environmental Justice and NEPA Flowchart - (available on paper copy from Directives Office, IMD, OCIO, at 202-690-2118)

APPENDIX E

NARRATIVE FOR ENVIRONMENTAL JUSTICE FLOWCHART FOR CATEGORICALLY EXCLUDED PROGRAMS AND ACTIVITIES

The Environmental Justice Flowchart for Categorically Excluded Programs and Activities has been prepared to identify a process for determining whether an environmental justice issue exists for programs and activities categorically excluded under NEPA and, if so, what agency action is appropriate.

1. Determine if program or activity is a categorical exclusion. Determine whether the program or activity is listed as a categorical exclusion under either the Departmental or Agency NEPA regulations.

2. Determine potential for environmental justice issues. Determine if the proposed program or activity

might have an adverse environmental or human health effect or related socio-economic effect. If not, the environmental justice issue determination is complete. If the program or activity has a potential for adverse environmental or human health effect or related socio-economic effect on a minority or low-income population, continue to Step 3.

3. Identify interested and potentially affected parties. Any minority populations and low-income populations located within the area potentially affected should be identified; and a determination made as to whether they may be disproportionately affected by the project.

4. Initiate outreach. Once potentially affected parties have been identified, it is important to communicate with and understand the concerns of these groups. All interested and/or affected parties should be notified of the proposed action.

Notification should be accomplished by such means as publishing notices in local newspapers, including those read by potentially impacted low income and minority groups, and by sending notices out to elected officials, civic organizations, religious organizations, superintendents of schools, local PTAs and other community organizations that can help to facilitate outreach. Announcements should also be made through such vehicles as local radio and television stations and newspapers. Broadcasts and publications made in languages other than English can be particularly helpful in communicating with non-English speakers.

USDA agencies should find creative and meaningful ways to facilitate access of information about the proposed action. Outreach possibilities would include organizing public meetings at a time and place that is convenient for the potentially affected communities, scheduling meetings with elected officials and/or community organizations, and publishing a newsletter to keep people informed.

The participation of interested or affected parties should be encouraged throughout the entire environmental justice issue determination process. Documents, meetings, personal contacts, and written correspondence should be translated to facilitate participation by persons who do not speak or understand English. Such translations pertain to each of the steps that follow.

5. Analyze potential effects of program or activity. Evaluate information gathered from outreach initiatives along with all other information used in the decision making process to analyze the effects of the proposed program or activity and the effects of any identified alternative or mitigating actions. The analysis should include potential impacts to subsistence consumption and human health as well as the related economic and social effects of each alternative. If a determination is made that the proposed program or activity has, or will have a disproportionately high and adverse effect on human health or the environment, including related socio-economic effects, of minority or low-income populations, go to Step 6. If not go to Step 7;

6. Consider feasibility and appropriateness of alternatives or mitigative measures. The feasibility and appropriateness of alternatives or mitigating options and their effects should be considered. The concerns and suggestions of potentially affected minority and/or low-income populations should be carefully considered in the development of mitigation measures.

7. Notify interested and affected parties of agency decision. Notification should include all parties contacted during the outreach activities. The notice should demonstrate how the concerns of interested or affected parties have been addressed, and provide a rationale as to how and why the decision was reached.

8. Assess effectiveness of outreach. How did we do? Agencies are encouraged to evaluate their outreach efforts to minority and low-income communities and to determine whether the outreach should be modified for future projects.

Environmental Justice Flowchart for Categorically Excluded Programs and Activities - (available on paper copy from Directives Office, IMD, OCIO, at 202-690-2118)