



NUCLEAR REGULATORY COMMISSION

[NRC-2021-0137]

Systematic Assessment for how the NRC Addresses Environmental Justice in its Programs, Policies, and Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On July 9, 2021, the U.S. Nuclear Regulatory Commission (NRC) requested comments as part of its systematic review for how NRC programs, policies, and activities address environmental justice. Specifically, the NRC requested input on how the agency is addressing environmental justice, considering the agency's mission and statutory authority. The information will be used to inform the agency's assessment of how it addresses environmental justice. The public comment period was originally scheduled to close on August 23, 2021 and was extended to September 22, 2021. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments requested in the notice, published on July 9, 2021, (86 FR 36307) is extended. Submit comments by October 29, 2021. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- **Telephone:** 301-415-3875 or 800-882-4672.
- **Email:** NRC-EJReview@nrc.gov.
- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M,

U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2021-0137**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Allen Fetter, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-8556, email: Allen.Fetter@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2021-0137** when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2021-0137**.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The Staff Requirements Memorandum (SRM)-M210218B, “Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business, 10:00 A.M., Thursday, February 18, 2021,

Video Conference Meeting,” dated April 23, 2021, which provides direction to the staff or this assessment, is available in ADAMS under Accession No. ML21113A070.

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at pdresource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages comment submission via email and phone. Please reference Docket ID **NRC-2021-0137** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post comment submissions received via [regulations.gov](https://www.regulations.gov) at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

The NRC is an independent agency established by the Energy Reorganization Act of 1974 that began operations in 1975 as a successor to the licensing and regulatory activities of the Atomic Energy Commission. The NRC’s mission is to license and regulate the Nation’s civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety and to promote the common defense and security and to protect the environment. As part of its licensing and regulatory activities, the NRC conducts safety, security, and environmental reviews.

Specifically, with respect to environmental reviews, the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. § 4321 et seq., requires all Federal agencies to evaluate the impacts of proposed major actions on the human environment. As part of its responsibilities under NEPA, the NRC considers environmental justice. According to the Commission, “[t]he term ‘environmental justice’ refers to the federal policy established in 1994 by Executive Order 12898, which directed federal agencies to identify and address ‘disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.’” *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI-15-6, 81 NRC 340, 369 (2015).

The NRC, as an independent agency, was requested, rather than directed, to comply with Executive Order 12898, and this Executive Order did not, in itself, create new substantive authority for Federal agencies. In a March 31, 1994, letter to President Clinton, NRC Chairman Ivan Selin indicated that the NRC would endeavor to carry out the measures set forth in Executive Order 12898 and the accompanying memorandum as part of the NRC’s efforts to comply with NEPA (ADAMS Accession No. ML033210526). As noted in the NRC’s 1995 Environmental Justice Strategy (ADAMS Accession No. ML20081K602 (March 24, 1995)), because “the NRC is not a ‘land management’ agency, i.e., it neither sites, owns, or manages facilities or properties,” the NRC determined that Executive Order 12898 would “primarily apply to [NRC] efforts to fulfill” NEPA requirements as part of NRC’s licensing process.

On August 24, 2004, following public comment on a draft Policy Statement (68 FR 62642), the Commission issued its “Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions” (69 FR 52040). The purpose of this Policy Statement was to set forth a “comprehensive statement of the Commission’s policy on the treatment of environmental justice matters in NRC regulatory and licensing actions.” *Id.* at 52,041. The Policy Statement explains that the focus of an environmental justice review “should be on identifying and weighing

disproportionately significant and adverse environmental impacts on minority and low-income populations that may be different from the impacts on the general population. It is not a broad-ranging or even limited review of racial or economic discrimination.” *Id.* at 52,047.

The Policy Statement also reiterates guidance on defining the geographic area for environmental justice assessments and identifying low-income and minority communities. *Id.* In addition, it explains that a scoping process is used to “assist the NRC in ensuring that minority and low-income communities, including transient populations, affected by the proposed action are not overlooked in assessing the potential for significant impacts unique to those communities.” *Id.* at 52,048. In performing a NEPA analysis, “published demographic data, community interviews and public input through well-noticed public scoping meetings should be used in identifying minority and low-income communities that may be subject to adverse environmental impacts.” *Id.*

On April 23, 2021, in a Staff Requirements Memorandum (ADAMS Accession No. ML21113A070), the Commission directed the staff to “systematically review how the agency’s programs, polices, and activities address environmental justice.” As part of this review, the Commission directed the staff to evaluate recent Executive Orders and assess whether environmental justice is appropriately considered and addressed in the agency’s programs, policies, and activities, given the agency’s mission. As directed, the staff will consider the practices of other Federal, State, and Tribal agencies and evaluate whether the NRC should incorporate environmental justice beyond implementation through NEPA. The staff will also review the adequacy of the 2004 Policy Statement. The Commission further directed the staff to consider whether establishing formal mechanisms to gather external stakeholder input would benefit any future environmental justice efforts. To carry out the Commission’s direction, the staff is seeking to engage stakeholders and interested persons representing a broad range of perspectives. This *Federal Register* notice is part of this engagement effort.

III. Requested Information and Comments

On July 9, 2021, the NRC published a notice in the *Federal Register* (86 FR 36307) requesting comments. The comment period was originally scheduled to close on August 23, 2021 and was extended to September 22, 2021 (86 FR 43696). The NRC staff has decided to extend the comment period until October 29, 2021, to allow more time for members of the public to submit their comments.

The NRC is interested in obtaining a broad range of perspectives from stakeholders and interested persons. The focus of this request is to gather information to inform a systematic assessment for how the NRC addresses environmental justice in its programs, policies, and activities, considering the agency's mission and statutory authority. The NRC is particularly interested in receiving input on the following questions:

- 1) What is your understanding of what is meant by environmental justice at the NRC?
- 2) As described in the Commission's 2004 Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions (69 FR 52040), the NRC currently addresses environmental justice in its NEPA reviews to determine if a proposed agency action will have disproportionately high and adverse impacts on minority and low-income communities, defined as environmental justice communities.
 - a) When the NRC is conducting licensing and other regulatory reviews, the agency uses a variety of ways to gather information from stakeholders and interested persons on environmental impacts of the proposed agency action, such as in-person and virtual meetings, *Federal Register* notices requesting input, and dialog with community organizations.
 - i) How could the NRC expand how it engages and gathers input?

- ii) What formal tools might there be to enhance information gathering from stakeholders and interested persons in NRC's programs, policies, and activities?
 - iii) Can you describe any challenges that may affect your ability to engage with the NRC on environmental justice issues?
- b) How could the NRC enhance opportunities for members of environmental justice communities to participate in licensing and regulatory activities, including the identification of impacts and other environmental justice concerns?
 - c) What ways could the NRC enhance identification of environmental justice communities?
 - d) What has the NRC historically done well, or currently does well that we could do more of or expand with respect to environmental justice in our programs, policies, and activities, including engagement efforts? In your view, what portions of the 2004 Policy Statement are effective?
- 3) What actions could the NRC take to enhance consideration of environmental justice in the NRC's programs, policies and activities and agency decision-making, considering the agency's mission and statutory authority?
- a) Would you recommend that NRC consider any particular organization's environmental justice program(s) in its assessment?
 - b) Looking to other Federal, State, and Tribal agencies' environmental justice programs, what actions could the NRC take to enhance consideration of environmental justice in the NRC's programs, policies, and activities?
 - c) Considering recent Executive Orders on environmental justice, what actions could the NRC take to enhance consideration of environmental justice in the NRC's programs, policies, and activities?

d) Are there opportunities to expand consideration of environmental justice in NRC programs, policies, and activities, considering the agency's mission? If so, what are they?

Dated: September 7, 2021.

For the Nuclear Regulatory Commission.

Gregory F. Suber, Director,
Environmental Justice Review Team,
Office of the Executive Director for
Operations.

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