



Environmental Justice
Annual Implementation Progress Report
FY 2012

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I. Introduction

In 1994, President William Jefferson Clinton issued Executive Order (EO) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (Feb. 11, 1994), requiring each covered agency to “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.” Although the Department of Homeland Security (DHS) did not exist in 1994 and is thus not an agency expressly included in the EO, in August 2011, DHS joined 16 other federal agencies in signing a *Memorandum of Understanding on Environmental Justice and EO 12898* (EJ MOU),¹ agreeing to make achieving environmental justice part of its mission.

In accordance with EO 12898 and the EJ MOU, DHS has undertaken a number of commitments to further the aims of environmental justice, including publication of an agency-wide Environmental Justice Strategy² and annual progress reports on its implementation.³

As explained more fully in the Strategy, DHS approaches environmental justice through the missions and general strategic framework set forth in the 2010 Quadrennial Homeland Security Review Report (QHSR), which guides the activities of the homeland security enterprise, including those of the Department.⁴ Environmental justice considerations can arise within three of the QHSR’s five homeland security missions: Preventing terrorism and enhancing security; securing and managing the nation’s borders; and ensuring resilience to disasters.

This Report summarizes the Department’s progress toward achieving the goals of EO 12898 during fiscal year 2012, with particular attention to four areas of interagency focus enumerated in the EJ MOU:

- implementation of the National Environmental Policy Act (NEPA);
- implementation of Title VI of the Civil Rights Act of 1964, as amended;
- impacts from climate change; and
- impacts from commercial transportation and supporting infrastructure (i.e., “goods movement”).

¹ The EJ MOU is available at <http://www.epa.gov/environmentaljustice/resources/publications/interagency/ej-mou-2011-08.pdf>. Concurrently with the MOU, the participating agencies issued a *Charter for the Interagency Working Group on Environmental Justice*, available at <http://www.epa.gov/environmentaljustice/resources/publications/interagency/iwg-charter-2011.pdf>.

² Department of Homeland Security, *Environmental Justice Strategy* (February 2012), available at <http://www.dhs.gov/xlibrary/assets/mgmt/dhs-environmental-justice-strategy.pdf>.

³ The first implementation report was released concurrently with the Strategy. Department of Homeland Security, *Environmental Justice Annual Implementation Report for the Period Through FY2011* (February 2012), at <http://www.dhs.gov/xlibrary/assets/mgmt/dhs-fy2011-ej-ann-rpt.pdf>.

⁴ Department of Homeland Security, *Quadrennial Homeland Security Review Report: A Strategic Framework for a Secure Homeland* (February 2010), available at <http://www.dhs.gov/quadrennial-homeland-security-review-qhsr>.

DHS is proud to be an active participant in the vigorous interagency effort to incorporate environmental justice values as it keeps the nation safe, secure, and resilient.

II. Implementing Commitments of the EJ MOU

Focus Area 1: Implementation of the National Environmental Policy Act

The principal legal framework for incorporating environmental justice into agency decision making is the National Environmental Policy Act (NEPA), the “basic national charter for protection of the environment” (40 C.F.R. § 1500.1(a)). Through NEPA, Congress directed federal agencies to integrate environmental factors in planning and decision making. During the decision-making process, agencies must consider the environmental, social, economic, and technical factors of proposed actions. The process provides officials, decision makers, and the public with an understanding of the proposed action’s potential impact on the environment. For major actions that could significantly affect the environment, agencies must prepare an Environmental Impact Statement (EIS). EO 12898 and the EJ MOU underscore the importance of NEPA procedures 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.”

The Secretary has designated the Office of the Chief Readiness Support Officer (CRSO) to lead the Department’s implementation of NEPA. DHS NEPA implementing procedures contained in DHS Directive 023-01, *Environmental Planning Program*, require that guidance issued by the President’s Council on Environmental Quality (CEQ) be followed in performing reviews of proposed actions to identify potential environmental justice issues; CEQ guidance on integrating environmental justice was first issued in 1997. Several Department components also have NEPA offices active in creating environmental policy, including the Federal Emergency Management Agency’s (FEMA) Office of Environmental Planning and Historic Preservation (OEHP).

The EJ MOU affirms the commitment that “[e]ach 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.” When, for example, the U.S. Coast Guard (USCG) acts as a lead federal agency on a harbor or bridge construction project, environmental justice considerations may arise with respect to NEPA analysis of potential changes in traffic and emissions following the project. Environmental justice in that context would involve USCG engaging with affected communities to understand and prepare to address local concerns about environmental effects.

In addition to efforts through DHS’s own NEPA process, the Department also participates in a NEPA committee of the Interagency Working Group on Environmental Justice, currently co-chaired by the Department of Transportation (DOT) and the Environmental Protection Agency (EPA). The Committee’s purpose is to improve the efficiency of the NEPA process across the government to enhance the consideration of environmental justice through the sharing of best practices and lessons learned. During its first year the Committee launched several initiatives:

- **Cross-agency training.** The NEPA Committee commenced a series of cross-agency training on available tools, methods, and agency-specific focal areas for further incorporating environmental justice analysis within the NEPA process. The training is designed to inform agencies of the current state of NEPA-related environmental justice efforts across the government.
- **Creating a training module.** The Committee commenced drafting a national NEPA training module on environmental justice based on the results of an interagency review of existing federal training. This national training module will provide federal officials, at all levels, a foundational understanding of NEPA's role in addressing environmental justice.
- **Creating an environmental justice resources compendium.** The Committee created a resources compendium which consolidates the publically available NEPA and environmental justice related documents from federal agencies (e.g., regulations, guidance, and circulars) and provides hyperlinks to each document for quick access. DHS reviewed and provided comments to the Committee during the development of the compendium. The online version is scheduled for publication in FY2013.

Focus Area 2: Implementation of Title VI of the Civil Rights Act of 1964, as amended

Title VI of the Civil Rights Act of 1964 ("Title VI") prohibits race, color, and national origin discrimination by recipients of financial assistance from DHS. Environmental justice concerns may be presented in projects supported through federal financial assistance, and Title VI provides an important tool for raising and addressing those concerns. The EJ MOU therefore prioritizes participating agencies' ensuring vigorous and effective Title VI programs.

By delegation from the Secretary and through regulations at 6 CFR Part 21, the DHS Office for Civil Rights and Civil Liberties (CRCL) leads the Department's compliance program to assure that its federally assisted programs comply with Title VI and the Department's implementing regulations.⁵ In FY2012, CRCL continued to develop and oversee the Department-wide Title VI compliance program. Major activities included the development of a civil rights pre-award program for applicants for DHS grants and other types of federal financial assistance. Once the pre-award program is fully implemented, applicants for financial assistance will be required to submit data and information related to civil rights complaints, including those that raise environmental justice concerns, and their policies and procedures to fulfill various civil rights obligations.

As with NEPA, DHS is an active participant in the Title VI Committee of the Interagency Working Group on Environmental Justice. During FY2012, the Title VI committee identified the need to improve the distribution of information on the intersection of Title VI and environmental justice issues across federal agencies and to the public. The committee has gathered resources on the interaction of Title VI and environmental justice from various agencies

⁵ In addition to the Departmental regulations at 6 C.F.R. Part 21, analogous regulations applicable to financial assistance from FEMA can be found at 44 C.F.R. Part 7.

and prepared to post these materials on the Interagency Working Group's website as a common resource.

Other accomplishments in implementing Title VI in DHS in FY2012 included:

- **Technical assistance to recipients.** CRCL staff provided basic civil rights training to colleges and universities receiving funding through the Academic Research Initiative grant program and conducted a listening session, in collaboration with the U.S. Citizenship and Immigration Services (USCIS) Office of Citizenship, around engaging limited English proficient (LEP) individuals for approximately twenty organizations receiving funding through the Citizenship and Integration Grant Program. CRCL staff also presented on Department Title VI requirements at the East-West Gateway Council of Governments Title VI Workshop in St. Louis, Missouri. Many of the participants were local government entities that receive DHS funding through a state or county agency.
- **Interagency initiatives on civil rights and emergency preparedness.** CRCL and FEMA, in cooperation with the Department of Justice (DOJ) and the Department of Health and Human Services (HHS), hosted community stakeholder listening sessions focused on the topic of the “civil rights foundations of emergency preparedness.” The sessions provided stakeholders with an opportunity to share their experiences and perspectives on the disaster-related application of Title VI, including the impact on immigrant communities and LEP individuals. Additionally, the sessions were used to solicit perspectives related to any barriers to equal access to response and recovery assistance for disaster-impacted populations, ways to reduce or eliminate these barriers, and promising practices to ensure equal access to critical assistance. Feedback from participants will be used to inform future civil rights related guidance for use by state, local, and tribal partners in emergency preparedness. One of the sessions held added importance because Hurricane Isaac was moving towards impacting the Gulf Coast at the time; stakeholders who advocate on behalf of diverse populations in this region had an opportunity for direct dialogue with federal partners having responsibility for ensuring civil rights compliance during disasters.
- **Access for persons with limited English proficiency.** DHS released its first-ever Department plan for providing meaningful access to homeland security programs and activities to persons with limited English proficiency,⁶ recognizing the importance of being able to communicate effectively with individuals, including those with LEP, across the Department's missions and function. The Language Access Plan establishes a system within DHS to implement Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), which requires, among other things, that each Federal department and agency “examine the services it provides to LEP persons and develop and implement a system by which LEP persons have ‘meaningful access’ to those services without unduly burdening the fundamental mission of the agency.” As part of this effort, CRCL developed a set of materials—the “I Speak”

⁶ U.S. Department of Homeland Security, *Language Access Plan* (February 2012), available at <http://www.dhs.gov/department-homeland-security-language-access-plan> (including summaries in multiple languages).

language identification poster and pocket guide—that allow personnel to readily identify the languages spoken by literate individuals who are not proficient in English and then obtain available language services. These materials, which include more than 85 languages, are available at www.dhs.gov/crcl-lep.

Focus Area 3: Impacts from Climate Change

Adaptation to a changing climate may present environmental justice considerations. Pursuant to Executive Order 13514, *Federal Leadership in Environmental, Energy and Economic Performance* (October 2009), in FY2012 DHS Deputy Secretary Jane Holl Lute signed the DHS Climate Change Adaptation Roadmap.⁷ The Climate Change Adaptation Executive Steering Committee, chaired by the Secretary’s Office, meets quarterly to ensure timely execution of any actions identified as priorities from the Roadmap. At the programmatic level, a Climate Change Director Group meets monthly and as needed to ensure day-to-day implementation of this multi-year strategy.

The overarching purpose of the Roadmap is to ensure DHS’s vast mission space is not negatively impacted by extreme weather, with particular focus on ensuring resilience to disasters, one of the Department’s core missions. The Department also worked to increase awareness about the issue with stakeholders, placing emphasis on the Critical Infrastructure and Emergency Preparedness and Response communities.

Focus Area 4: Impacts from Commercial Transportation and Supporting Infrastructure

In its role as protector of the nation’s borders and the grantor of bridge permits, DHS is instrumental in the movement of goods. “Goods movement” refers to the distribution of freight (including raw materials, parts, and finished consumer products) by all modes of transportation, including marine, air, rail, and truck. Goods movement facilities, also called freight facilities, include seaports, airports, and land ports of entry, rail yards and rail lines, highways and high truck traffic roads, warehouse and distribution centers.⁸ At the same time, environmental justice calls for appropriate consideration of the environmental and health effects of goods movement and the need for effective communication with affected communities.

DHS and the EPA co-chair the Goods Movement Committee of the Interagency Working Group on Environmental Justice. Established in the fourth quarter of FY2012, the Committee has made a number of advancements in FY2012, including:

- Launching biweekly interagency meetings;

⁷ U.S. Department of Homeland Security, *Climate Change Adaptation Roadmap* (June 2012), available at http://www.dhs.gov/sites/default/files/publications/Appendix%20A%20DHS%20FY2012%20Climate%20Change%20Adaptation%20Plan_0.pdf.

⁸ Environmental Protection Agency, *EPA’s Response to the National Environmental Justice Advisory Council Report: Reducing Air Emissions Associated with Goods Movement: Working Toward Environmental Justice* (June 28, 2010).

- Developing a draft FY2013 Goods Committee Action Plan focused on supporting federal agency initiatives to reduce the environmental and health effects of efforts related to commercial transportation and supporting infrastructure and impacts on low-income, minority and tribal populations, while assuring that overburdened communities have greater opportunities to benefit from federal efforts related to goods movement;
- Facilitating the engagement with and support and utilization of the Ports Task Force, an interagency group led by the White House to develop a federal strategy for future port and related infrastructure investments; and
- Enhancing federal collaboration and information sharing by introducing interagency tools and resources such as the Committee on the Marine Transportation System Data Map and Federal Highway Administration Freight Analysis Framework.

III. Additional Steps in Implementing the DHS Environmental Justice Strategy

The Department's 2012 Environmental Justice Strategy committed DHS to the seamless integration of environmental justice principles into its operations through concrete steps and ongoing operational improvements. In addition to the accomplishments already described as part of the four interagency focus areas discussed in Part II of this Report, in FY2012 DHS took further steps to implement the Strategy:

- **Creating a Directive and Instruction on environmental justice.** CEQ requires each federal agency to develop procedures for implementing NEPA. Current DHS NEPA procedures, established in 2006, call for appropriate consideration of environmental justice in DHS NEPA processes. In FY2012 DHS embarked on the revision of DHS Directive 023-01, Environmental Planning Program.
- **Identifying and addressing environmental justice considerations in programs, policies, and activities.** Within DHS, an Environmental Justice Working Group (EJWG) comprising operational components and headquarters support was established in 2010. The EJWG, co-chaired by CRCL and CRSO Sustainability and Environment Program, met a minimum of monthly to review current and pending DHS actions.
- **Developing compliance and review capacity.** DHS developed and implemented an enterprise-wide Decision Support System (DSS) for documenting proposed projects and activity compliance per the requirements of Directive 023-01. The DSS automates and standardizes the environmental planning and historic preservation (EPHP) review and documentation process, including environmental justice.
- **Communicating through active outreach efforts.** Publication of the departmental Language Access Plan, and the outreach activities described in the discussion of the Title VI focus area above, were critical steps in strengthening DHS's active outreach to potentially affected communities.

IV. Component Engagement on Environmental Justice

DHS accomplishes its mission principally through seven operational components and over two dozen support components. A catalogue of every environmental justice consideration undertaken throughout the Department is infeasible, but we are proud to present here several examples, in addition to those already discussed, of DHS components engaging with environmental concerns and in active outreach to potentially affected communities.

U.S. Customs and Border Protection (CBP)

By a memorandum of understanding signed in March 2006 by the Secretaries of DHS, the Department of Interior (DOI), and the US Department of Agriculture (USDA) calling for environmental and cultural awareness training, CBP assumed a lead role in creating a tri-agency Environmental and Cultural Stewardship Taskforce. In FY2012, the Taskforce jointly developed a broad national training module for Border Patrol agents. CBP, through its State, Local and Tribal Liaison Office, strives to maintain open communication and build effective relationships with state, local and tribal governments. To accomplish this mission, agents are provided targeted tribal training. Examples include training on the Akwasasne Tribe in Swanton Sector and the Tohono O'odham Nation in the Tucson Sector. Additionally, agents receive education on the handling and management of chance discoveries of pottery shards and other cultural artifacts, and sacred natural places, such as mountains in the Baboquivari for the Tohono O'odham Nation.

CBP's Office of Border Patrol has established Borderland Management Taskforces to address a variety of issues, including current and future access to public lands relative to environmental impacts. The Taskforces are composed of federal, state and local law enforcement and land management personnel. In FY2012, Public Land Liaison Specialists conducted border land management activities in each of the 20 Border Patrol Sectors, and Taskforce meetings were held in 18 sectors.

U.S. Coast Guard (USCG)

The USCG, through its maritime safety, security, and stewardship, and multi-mission operations, is actively engaged in the environmental justice activity throughout the United States. Key actions of FY2012 included:

- **Arctic Shield 2012.** In recognition of a rapidly changing environment in the Arctic Circle due to warming temperatures and increased vessel traffic, USCG conducted Arctic Shield 2012 to review and assess USCG activities in the U.S. Arctic. The USCG District 17 Tribal Liaison Office reviewed Arctic Shield's programs and operations for potential impact on federally recognized Alaska native tribes in the Arctic and Northwest Alaska. As part of USCG's environmental stewardship mission, Arctic Shield 2012 conducted an Environmental Assessment, which included outreach to Alaska native tribes and other communities in the U.S. Arctic region. USCG organized briefings and meetings during Arctic Shield 2012 to address community, subsistence, and environmental concerns.

- **Further tribal engagement.** A tribal engagement tracking log was established in Alaska to identify tribal engagements and consultation, and for use in gap analysis and identification of ongoing engagement priorities for current and future years.
- **Marine mammals.** The USCG conducted an aerial marine mammal carcass survey in support of a regional Unusual Mortality Event (UME) in the Bering Strait/Arctic regions. This was of high concern throughout the region because of the potential impact to food security.

Federal Emergency Management Agency (FEMA)

FEMA through its support of citizens and first responders is focused on environmental justice. The Office of Environmental Planning and Historic Preservation (OEHP) sets policy and procedures for addressing compliance with the NEPA and includes environmental justice in FEMA's operations and grant assistance programs. Key actions in FY2012 included:

- **Outreach.** Discussions on impacts to low-income and minority populations were held with the public as part of the review of the relocation of public schools out of a flood hazard zone using hazard mitigation funding resulting in the locally preferred alternative as having the least impact to low-income and minority populations.
- **Flood risk mapping.** FEMA responded to environmental justice inquiries and concerns received regarding the release of new risk mapping that suggested an increased flood hazard for low-income and minority households and thereby resulting in higher flood insurance rates. The hazard information was based on objective modeling. Additional public involvement to help the community understand the new mapping and its impact was recommended.
- **Industrial area flood risks.** The New York City Environmental Justice Alliance (NYC EJ Alliance) has brought to EPA, FEMA and interagency forums concerns about flood risks in industrial areas (particularly the Brooklyn-Gowanus area) and the potential impacts to neighboring integrated communities. FEMA recommended that the NYC EJ Alliance seize the opportunity to be engaged in the NYC hazard mitigation planning process and work with the state to enhance preparedness and communication with industry.
- **Training.** Approximately 150 students received FEMA's Environmental Planning and Historic Preservation classroom training, of which, NEPA and environmental justice are a component. Additionally, 2,145 students completed the online independent study training. Students were made up of State Emergency Management staff, FEMA employees, Reservists and other federal, state and local officials.

V. Public Comments

There were no public comments received on the FY2011 Environmental Justice Strategy Annual Implementation Progress Report. DHS remains open to public comment on the EJ Strategy and Annual Reports.

VI. Updates and revisions to the EJ Strategy

The DHS EJ Strategy was approved in February 2012. There are no updates or revisions to the DHS EJ Strategy for this reporting period.

VII. Conclusion

This FY2012 Annual Report serves as the official update of Department activities relative to the FY2012 Environmental Justice Strategy. The Department remains committed to the vision of avoiding burdening minority and low-income populations with a disproportionate share of any adverse human health or environmental risks associated with its efforts to secure the nation.