



Environmental Justice Strategy
February 2012

Environmental Justice Strategy

VISION STATEMENT

“Environmental justice” describes the commitment of the Federal Government, through its policies, programs, and activities, to avoid placing disproportionately high and adverse effects on the human health and environment of minority or low-income populations. As described in the 2010 Quadrennial Homeland Security Review (QHSR), our Nation’s vision of homeland security is a homeland safe and secure, resilient against terrorism and other hazards, and where American interests and aspirations and the American way of life can thrive. In seeking to fulfill this vision, the Department of Homeland Security (DHS) aspires to avoid burdening minority and low-income populations with a disproportionate share of any adverse human health or environmental risks associated with our efforts to secure the Nation. DHS joins with other departments and agencies to appropriately include environmental justice practices in our larger mission efforts involving federal law enforcement and emergency response activities.

I. INTRODUCTION

A. Overview

DHS’ ability to affect environmental justice arises principally through environmental review of the impact of our own operations, financial assistance to state, local and tribal governments, and through regulatory permitting activities. Recognizing that the incorporation of environmental justice policies may be highly variable across parts of the Department depending on a component’s mission, this Environmental Justice Strategy is intended to promote a comprehensive, consistent and adaptive strategy among our components.

In August 2011, DHS joined a Memorandum of Understanding on Environmental Justice (EJ MOU) to participate in government-wide environmental justice efforts, consistent with DHS’ own authorities and missions, and is a “Participating Agency” in the Interagency Working Group on Environmental Justice, pursuant to section III.B of the EJ MOU.

In accordance with Executive Order 12898 and the EJ MOU, federal agencies, including DHS, agreed to fulfill the following commitments on Federal Agency Environmental Justice Strategies, Public Input, and Annual Reporting:

- **Environmental Justice Strategy.** This is the first DHS Environmental Justice Strategy. As a part of the development of this Strategy, DHS provided public access through posting a draft of the Strategy on its public website, provided an email address for the submission of public comments, provided a notice of the availability of the Strategy to stakeholders with an interest in DHS civil rights and civil liberties issues and posted a link to the draft Strategy on the Environmental Justice webpage of the Environmental Protection Agency’s public website.
- **Public Input.** Consistent with Executive Order 12898, section 5.5, and the EJ MOU, section III.C, DHS will ensure that meaningful opportunities exist for the public to submit recommendations relating to the agency’s Environmental Justice Strategy and to the agency’s

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ongoing efforts to incorporate environmental justice principles into its programs, policies, and activities. DHS will continue to make this Environmental Justice Strategy available through a public website posting, email address for public comments and links to the public website of the Environmental Protection Agency on Environmental Justice.

- **Annual Implementation Progress Report.** Beginning in 2012, DHS will provide a concise report on progress during the previous fiscal year toward achieving the goals of Executive Order 12898 and implementing the agency's Environmental Justice Strategy. Consistent with the EJ MOU, the annual report will address, as appropriate, the following areas of focus: (1) implementation of the National Environmental Policy Act; (2) implementation of Title VI of the Civil Rights Act of 1964, as amended; (3) impacts from climate change; and (4) impacts from commercial transportation and supporting infrastructure ("goods movement"). The annual report will be posted on the agency's website and will include a summary of comments submitted by members of the public and any updates or revisions to the agency's Environmental Justice Strategy.
- **Component-Specific Considerations.** Along the Nation's land borders and coastal waters, DHS has a significant physical presence, principally through the U.S. Coast Guard (USCG) and U.S. Customs and Border Protection (CBP), where environmental justice considerations arise. Through the Federal Emergency Management Agency's (FEMA) work in emergency preparedness and response, the agency helps ensure environmental justice in communities that must prepare for, mitigate against, respond to, or recover from an emergency or disaster.
- **Authorities.** The *National Environmental Policy Act*, 42 U.S.C. sec. 4321 et seq. and the Council on Environmental Quality regulations implementing that act, 40 C.F.R. parts 1500-1518, require that DHS understand the environmental effects of proposed decisions and to minimize those effects to avoid, if possible, having any significant adverse environmental impact. Ensuring nondiscrimination in significant actions affecting human health and the environment may be required by a range of federal authorities, including the United States Constitution and Title VI of the *Civil Rights Act of 1964*, 42 U.S.C. sec. 2000d et seq., including DHS' implementing regulations at 6 C.F.R. part 21 and 44 C.F.R. part 7. Additional information on Title VI is provided in Appendix A.

B. Relationship of Environmental Justice to the Department of Homeland Security Mission

The 2010 QHSR provides the strategic framework for the activities of DHS. It describes five missions of DHS:

- **Preventing terrorism and enhancing security;**
- **Securing and managing the Nation's borders;**
- **Enforcing and administering our immigration laws;**
- **Safeguarding and securing cyberspace; and**
- **Ensuring resilience to disasters.**

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The Department's missions often include interaction with communities that may include minority populations and low-income populations. Of the five homeland security missions identified in the 2010 QHSR, the following three missions have a significant nexus for Environmental Justice considerations:

- **Preventing terrorism and enhancing security** includes DHS taking action to secure our ports for both people and goods moving in and out of the country. Communities in the vicinity of both sea and air ports may include low income and minority populations.
- **Securing and managing the Nation's borders** requires that DHS maintain a substantial presence along thousands of miles of land and water border that may include low income and minority populations and diverse natural communities and native ecosystems.
- **Ensuring resilience to disasters** requires DHS to have robust programs for emergency preparedness, mitigation, and response and disaster recovery. Meaningful communication with potentially affected communities, including minority populations and low income populations, is critical to ensuring that those impacted by disaster receive fair and equitable treatment in both planning, preparedness and mitigation activities as well as response and recovery actions.

II. 2011 DEPARTMENT OF HOMELAND SECURITY ENVIRONMENTAL JUSTICE STRATEGY

A. How the Environmental Justice Strategy Was Developed

DHS began the development of this Environmental Justice Strategy with the Secretary of Homeland Security's participation in the White House Environmental Justice Forum in December 2010. Initially through participation in the Interagency Environmental Justice Working Group, DHS began tailoring its strategy to its mission requirements by establishing internal environmental justice points of contact in its major areas of responsibility. From these points of contact, DHS formed a working group of those components with a larger role in ensuring that environmental justice is appropriately considered in securing the homeland. The working group was co-chaired by the Office for Civil Rights and Civil Liberties (CRCL) and the Directorate of Occupational Safety and Environmental Programs within the Management, Office of the Chief Administrative Officer (OCAO) and met regularly to identify programs already implemented with consideration to environmental justice. Figure 1, at the end of this Strategy shows the offices of DHS that participated in this internal work group. This strategy was developed over the course of a year-long process of discussion and formal internal review. These ongoing efforts reinforced the Department's commitment and are listed in Appendix B.

B. Department-wide Roles and Responsibilities

Senior leadership in the following program areas have important roles in ensuring that environmental justice is appropriately integrated into their specific mission: maritime safety, security, and stewardship; federal assistance authority; emergency management programs; border security; transportation security; immigration services; law enforcement training; science and

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technology research; and mission support and asset management. As the Department's capacities and mission areas evolve in response to improved understanding of emerging threats to safety and security, the concepts of this strategy will be extended to match the commitment to environmental justice in those new areas.

Two DHS headquarters offices will lead efforts to ensure the success of the Environmental Justice Strategy.

- **OCAO:** Environmental justice considerations are taken into account at the earliest stages of planning new policies, programs and activities by OCAO, which has Department-wide oversight of asset management and of environmental and historic preservation planning and compliance. This is accomplished through integration of environmental justice in the process for complying with the *National Environmental Policy Act* (NEPA).
- **CRCL:** CRCL supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL works to integrate civil rights throughout the Department's programs, including rights secured by Title VI, which provides one legal underpinning of Executive Order (EO) 12898 and prohibits discrimination on the grounds of race, color, or national origin in programs or activities receiving federal financial assistance.

Four other headquarters offices provide critical support for the activities of OCAO/OSEP and CRCL in successfully implementing this strategy.

- **Office of the General Counsel** provides legal advice, guidance, and review for all environmental justice policy and supports Departmental compliance or implementation actions.
- **Management, Office of the Chief Financial Officer**, through the Financial Assistance Policy Office (FAPO), provides appropriate guidance to ensure environmental justice in the administration of DHS grant programs.
- **Intergovernmental Affairs** establishes and maintains appropriate relationships with state, local, and tribal governments to ensure adequate consideration of environmental justice issues in the Department's activities.
- **Office of Policy** ensures that mission-driven policies of the Department support the objectives and priorities set forth in the Environmental Justice Strategy, and provide a source of integration and analysis of Departmental policies, including in the context of environmental justice.

Every Component of the Department has a role, some larger, some smaller, in ensuring that environmental justice has been considered in securing the homeland without placing disproportionate burdens on the health and environment of low income populations and minority populations.

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C. Environmental Justice Strategy Objectives and Performance Measures

DHS will accomplish the goal of seamless integration of environmental justice principles into its operations by:

- Creating a Directive and Instruction on Environmental Justice (through revisions to Directive 023-01 on Environmental Planning Program) that will outline DHS roles and responsibilities for the various Headquarters and Operational Components in achieving the tasks set out in this strategy.
- Identifying and addressing programs, policies, and activities of the Department that may have disproportionately high and adverse human health or environmental effects on minority, low-income, and tribal populations. A review of existing programs will take place through the Environmental Justice Working Group, through the process of updating NEPA documentation, through Title VI review, and other mechanisms. New programs will consider environmental justice when preparing documentation required by NEPA.
- Developing compliance and review capacity to test the effectiveness of the requirements in the Directive and Instruction and to measure performance. This includes incorporating environmental justice into compliance reviews under Title VI.
- Collaborating fully with other agencies on environmental justice related matters, as the need arises.
- Effectively communicating through active outreach efforts with the public, the academic community, other agencies, and non-federal governmental entities, including government-to-government contact with tribes, to anticipate, understand, and resolve specific issues of concern raised by our activities, including activities designed to adapt to climate change. Communication on initiatives related to environmental justice will implement the DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (http://www.dhs.gov/xabout/laws/gc_1277242893223.shtm, along with multi-lingual summaries), and with the Department's forthcoming language access plan.

III. Reporting and Accountability

- CRCL will host a consolidated "landing page" on its website for all DHS environmental justice programs, with links to public information and program information hosted on Component websites.
- This strategy and annual reports on DHS environmental justice efforts will be posted to the public websites of OCAO and/or CRCL. All such reports and other public information will be compliant with Section 508 of the *Rehabilitation Act of 1973*, and the reports or

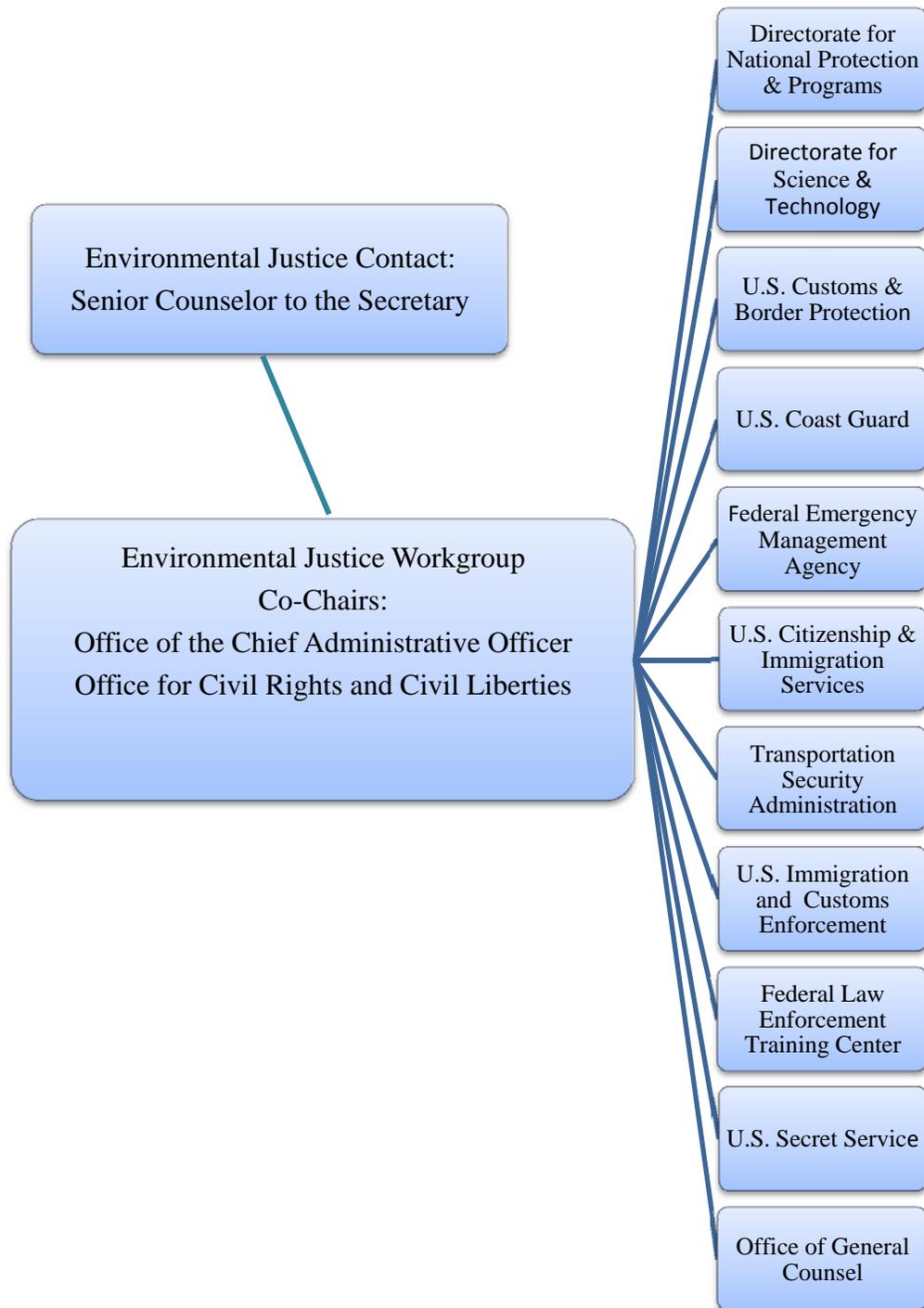
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summaries thereof will be made accessible in non-English languages, to the extent reasonably possible, consistent with DHS' language access policy.

- Environmental justice activities will be discussed, as relevant and appropriate, in the quarterly or annual reports to Congress mandated by the *Homeland Security Act of 2002* and other statutes. A Department-wide report on environmental justice will be included in CRCL's annual report to Congress.

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Figure 1 - DHS Environmental Justice Working Group



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APPENDIX A: SUPPLEMENTAL INFORMATION

LANGUAGE ON TITLE VI

Provided by the U.S. Department of Justice

Title VI of the *Civil Rights Act of 1964* (“Title VI”) prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. See 42 U.S.C. § 2000d. Title VI is also the model for several subsequent statutes that prohibit discrimination on other grounds in federally assisted programs or activities, including Title IX (discrimination in education programs prohibited on the basis of sex) and Section 504 (discrimination prohibited on the basis of disability). Under Title VI, Federal assistance is not just limited to an award or grant of money. It may occur in nonmonetary forms such as, the use or rent of federal land or property at below market value, federal training, a loan of federal personnel, subsidies, and other arrangements with the intention of providing assistance. Title VI provides that if a recipient of federal assistance is found to have discriminated, and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate fund termination proceedings or refer the matter to the Department of Justice (Civil Rights Division) for appropriate legal action. Aggrieved individuals may file administrative complaints with the federal agency that provides assistance to a recipient. Title VI itself prohibits intentional discrimination. However, most funding agencies have implementing regulations for Title VI that prohibit recipient practices that have the effect of discrimination on the basis of race, color, or national origin.

In 1994, EO 12898 was born out of a need to address concerns that the high and adverse environmental impacts of private or governmental actions were falling disproportionately on populations protected by laws such as Title VI (a.k.a. “Environmental Justice” concerns). In a Presidential memorandum accompanying EO 12898, President Clinton identified Title VI as one of several federal laws already in existence that can help “to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.” President’s Memorandum for the Heads of All Departments and Agencies, 30 weekly comp. Pres. Doc. 279, 280 (Feb. 11, 1994). EO 12898 amplifies Title VI by providing that 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 and low-income populations. Although not all Title VI complaints involve Environmental Justice and not all Environmental Justice complaints involve violations of Title VI, there is typically a body of environmental justice issues that are raised in the context of complaints alleging Title VI violations. Federal agencies need to be aware of this intersection and appropriately incorporate it into their Environmental Justice strategies.

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APPENDIX B: DEPARTMENT OF HOMELAND SECURITY PROGRAM EFFORTS THAT ADVANCE ENVIRONMENTAL JUSTICE

Environmental justice has been a consideration in DHS activities since early in the formation of the department. In addition, some components of DHS came into the department with a legacy of consideration of environmental justice because they formerly existed within departments that were required to comply with the EO. USCG was covered by the EO because it was part of the Department of Transportation (DOT) in 1994. The Transportation Security Administration (TSA) was also covered, since it was formed within DOT in November 2001. Similarly, the former Immigration and Naturalization Service, most of which has become a component of DHS, was covered by the EO because it was part of the Department of Justice in 1994. However, FEMA voluntarily undertook efforts to comply with the EO in 1994, although it was an independent agency at that time.

Consideration of environmental justice became a formal operating requirement in DHS with the issuing of Directive 023-1, Environmental Planning Program, in April 2006. Directive 023-1 implemented NEPA and required that environmental justice considerations be a part of the review process required by NEPA.

Examples of Environmental Justice considerations in DHS activities are provided below:

- Each U.S. Border Patrol Sector has a local Tribal Liaison who routinely coordinates with tribal communities along the border.
- All U.S. Border Patrol Agents receive Spanish language training to facilitate communication with border minority communities and all CBP Officers selected for duty in predominately Spanish-speaking communities also receive specialized Spanish language instruction.
- USCG has been coordinating with Native communities in Alaska on potential impacts that may occur by increased vessel traffic and oil exploration as a result of melting Arctic ice.
- In recognition of the potential for noise impacts and other disturbances to fish and marine mammals traditionally hunted by Native Alaskans, USCG manages its icebreaking operations in areas used by Native Alaskans to hunt to minimize adverse impacts of those operations.
- USCG has negotiated with tribes on the management of vessel operations and waterways in areas covered by tribal fishing treaties.
- FEMA explores alternate methods for communicating with the public when it knows the population being served by disaster assistance is not proficient in English.
- FEMA follows institutional controls to ensure that its non-federal grantees consider environmental justice in the delivery of disaster assistance.