MEETING SUMMARY

of the

AIR AND WATER SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

December 13, 2000
Arlington, Virginia

Meeting Summary Accepted By:

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Co-Designated Federal Official

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Annabelle Jaramillo
Chair

CHAPTER THREE
SUMMARY OF THE
AIR AND WATER SUBCOMMITTEE

1.0 INTRODUCTION

The Air and Water Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Wednesday, December 13, 2000, during a four-day meeting of the NEJAC in Arlington, Virginia. Ms. Annabelle Jaramillo, Citizens' Representative, Oregon Office of the Governor and former vice chair of the subcommittee, assumed the role of chair. Ms. Alice Walker, Office of Water (OW), U.S. Environmental Protection Agency (EPA) and Dr. Wil Wilson, Office of Air and Radiation (OAR), EPA, continue to serve jointly as the Designated Federal Officials (DFO) for the subcommittee. Exhibit 3-1 presents a list of the members who attended the meeting and identifies the member who was unable to attend.

This chapter, which provides a summary of the deliberations of the Air and Water Subcommittee, is organized in six sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the new and former chairs of the subcommittee. Section 3.0, *Presentations and Reports* presents an overview of each presentation and report delivered during the subcommittee meeting, as well as a summary of the questions asked and comments offered by members of the subcommittee. Section 4.0, *Activities of the Subcommittee*, summarizes the discussions of the activities of the subcommittee, such as the progress of the four work groups of the subcommittee. Section 5.0, *Summary of Dialogue on Environmental Justice*, features discussions that occurred during the open dialogue period of the subcommittee meeting, including comments offered by representatives of OAR and OW about the future of environmental justice at EPA under the upcoming Administration of President-elect George W. Bush. Section 6.0, *Significant Action Items*, summarizes the action items adopted by the subcommittee.

2.0 REMARKS

Ms. Jaramillo opened the subcommittee meeting by welcoming the members present and Ms. Walker and Dr. Wilson to the fourth meeting of the Air and Water Subcommittee. Ms. Jaramillo then asked the members of the subcommittee, presenters, and members of the audience to introduce themselves.

Exhibit 3-1

AIR AND WATER SUBCOMMITTEE

Members Who Attended the Meeting
December 13, 2000

Ms. Annabelle Jaramillo, **Chair**
Ms. Alice Walker, **co-DFO**
Dr. Wil Wilson, **co-DFO**

Dr. Bunyan Bryant
Ms. Daisy Carter
Ms. Clydia Cuykendall
Ms. Eileen Gauna
Dr. Michel Gelobter
Dr. Daniel Greenbaum
Ms. Rosa Hilda Ramos
Mr. Leonard Robinson
Mr. Damon Whitehead
Ms. Marianne Yamaguchi

Member Who Was Unable To Attend

Dr. Elaine Barron

Ms. Jaramillo distributed updated contact information for the members of the subcommittee. She then introduced Ms. Eileen Gauna, Professor of Law, Southwestern University School of Law, who was attending her first meeting as a new member of the subcommittee. Ms. Clydia Cuykendall, JC Penney, noted that the list of points of contact should indicate that this was to be her last meeting as a member of the subcommittee.

Dr. Michel Gelobter, Graduate Department of Public Administration, Rutgers University, and former chair of the subcommittee, explained that he had decided to relinquish his role as chair after the May 2000 meeting of the NEJAC because he felt overburdened by his personal and professional responsibilities. He thanked Ms. Jaramillo for taking over the chair.

Mr. Robert Brenner, Acting Deputy Assistant Administrator, OAR, complimented Dr. Gelobter for his efforts and accomplishments during the two years he served as chair. Mr. Brenner stated that many activities carried out by the subcommittee would be important to EPA in the upcoming years,

including its work on issues related to the concentration and combination of toxic pollutants in communities and outreach to communities. Ms. Dana Minerva, Deputy Assistant Administrator, OW, also expressed her appreciation to the members of the subcommittee for their efforts. She added that, as a political appointee, she was attending her last meeting of the NEJAC in her current capacity. She urged the subcommittee to continue working to ensure that certain communities are not affected disproportionately by pollution, regardless of the political atmosphere.

Dr. Gelobter remarked that it would be useful for the subcommittee to hear the views of Mr. Brenner and Ms. Minerva about policies that EPA could be expected to pursue during the six weeks before the presidential inauguration that may help in the struggle for environmental justice. He suggested as well that they share their views on the future of environmental justice at EPA under the Bush Administration. Ms. Jaramillo agreed with Dr. Gelobter that the subcommittee would benefit from hearing the views of Mr. Brenner and Ms. Minerva input during the open dialogue portion of the subcommittee meeting.

Ms. Jaramillo concluded the opening remarks by reviewing the agenda and inviting members of the audience to ask questions during the open dialogue period.

3.0 PRESENTATIONS AND REPORTS

This section summarizes presentations made and reports submitted to the Air and Water Subcommittee about EPA OAR's asthma initiative and its Guidance for Reducing Toxic Loadings.

3.1 U.S. Environmental Protection Agency Office of Air and Radiation's Asthma Initiative

Mr. David Rowson, Director, Center for Healthy Buildings, Office of Radiation and Indoor Air, OAR, provided information about the agency's asthma initiative. He described (1) current EPA research on the asthma epidemic and its effect on communities grappling with issues related to environmental justice, (2) challenges in addressing asthma in such communities, and (3) EPA programs related to asthma outreach and prevention.

Mr. Rowson noted that, while there also are ambient air issues related to asthma, his presentation would focus on the effect of indoor air on those who suffer from asthma. Explaining that asthma is a chronic inflammation of the airways that can lead to numerous health problems, he reported that current statistics show that more than 17 million people in the United States have been diagnosed with asthma. Mr. Rowson commented that, despite those numbers, the medical diagnosis of "chronic inflammation" and the statistics associated with the asthma epidemic are in flux. He then stated that, although asthma occurs in all populations at similar rates, (1) African Americans and Hispanic Americans are six times more likely than Caucasians to die of complication of asthma; (2) rates of emergency room visits are four times higher among African Americans than among Caucasians; and (3) African American children who live in urban communities in which the highest levels of ozone are found exhibit the highest rate of emergency room visits for asthma.

Mr. Rowson listed several challenges associated with the effort to address asthma. Lack of access to health care, misdiagnosis, and lack of awareness about the symptoms of asthma often cause underestimation of the actual number of cases of asthma, he said. Further, he added, many people who have asthma are following a comprehensive asthma management plan. These plans may not provide adequate health care due to certain barriers. Such barriers include time, money, and access, he explained, adding that managed care organizations – including Medicaid and Medicare – may not offer asthma case management. Mr. Rowson noted that another challenge associated with the effort to reduce asthma rates is competing priorities. Individuals may not have the time or money to deal with the symptoms of asthma, he said. Mr. Rowson then reported that, in some Hispanic populations, being diagnosed with asthma often is regarded as a sign of weakness. When priorities for infrastructure resources are examined, other issues that may compete with asthma include the need to eradicate gun violence and the effort to reduce rates of teenage pregnancy.

Ms. Gauna remarked that it appears that there are two principal parts to EPA's asthma initiative: (1) awareness and education and (2) the effort to address indoor air quality. She asked Mr. Rowson whether EPA has developed strategies to actually improve indoor air quality. She also asked for a discussion of the agency's efforts to improve the quality of ambient outdoor air.

Mr. Rowson referred inquiries about EPA's outdoor air efforts to others in OAR who work in the area of ambient air quality. On the subject of indoor air, he stated that most of the $5 million program was

focused on efforts in homes and schools because that is where children most likely will be affected. In homes, EPA primarily is educating individuals and families about managing the home environment to reduce indoor conditions that can trigger an attack, he explained. Lessons include a proper medical regime, what to do in emergency situations, and how to avoid things that will trigger an attack. For schools, EPA is working with the American Lung Association and other partners to improve general air quality in classrooms, explained Mr. Rowson. He added that, at the Federal level, voluntary programs to improve indoor air quality also are under development. Exhibit 3-2 describes EPA Indoor Environments Asthma Program. He observed that EPA was supporting efforts by states to adopt requirements for the improvement of indoor air quality.

Ms. Gauna asked whether there are specific strategies to reduce the occurrence of asthma triggers in schools, specifically through mitigation and intervention. Mr. Rowson responded that good ventilation and source reduction strategies are encouraged because such approaches reduce the proliferation of molds and remove irritants.

Ms. Daisy Carter, Director, Project AWAKE, asked whether asthma is caused by industrial emissions or is hereditary. She also requested a list of Federal and state agencies and non-government organizations that have conducted or are conducting research and outreach related to asthma. Mr. Rowson acknowledged that there are several theories about the cause of asthma, which range from obesity to growing up in an environment that is “too clean,” thereby limiting the development of the immune system to environmental irritants, tobacco smoke, and exposure to dust mites. He admitted that there is more understanding of the triggers of asthma than its causes. Mr. Rowson agreed to provide the list of agencies and organizations to the subcommittee, adding that new organizations are being formed constantly, especially at the state and local level.

Dr. Daniel Greenbaum, Health Effects Institute, commented that his organization had conducted significant research on asthma. He reported that many outdoor pollutants exacerbate the effects of asthma. As a follow-up to Ms. Gauna’s question about work in schools, Mr. Greenbaum reported that studies that track populations in school systems located both near and distant from trucks and diesel traffic have shown conclusively that the incidence of asthma attacks is higher among those nearer to emissions sources. Mr. Greenbaum added that, throughout much of the United States, schools were the last to see the installation of air conditioning systems, which stop the inflow of outdoor air.

Dr. Gelobter asked about examples of interagency activity related to address asthma triggers, especially any activity having an environmental justice aspect. Mr. Rowson responded that EPA is working with other agencies, including the U.S. Department of Health and Human Services, the Centers for Disease Control and Prevention, and the National Asthma Education Project (NAEP). He explained that NAEP is an entity under which many Federal agencies work together to address issues related to asthma. He added that inherent in all those efforts is an environmental justice theme because the agencies recognize that members of environmental justice communities suffer from asthma at a rate disproportionate to their number in the overall population. However, he acknowledged that NAEP has not established an environmental justice coordinating committee.

3.2 Guidance for Reducing Toxic Loadings

Ms. Jeneva Craig, Office of Policy Analysis and Review, OAR, provided an update on the Agency’s proposed guidance for reducing the levels of toxics in a community. She noted that comments on the guidance that were provided by the NEJAC and various stakeholders identified three primary concerns:

- Incentives are necessary to encourage communities to develop toxic reduction plans voluntary.
- EPA must provide more direction for developing a toxic emissions inventory and setting a baseline for tracking progress.
- Provisions of the guidance must be tested through pilot studies.

Ms. Craig noted that the goal of the Guidance for Reducing Toxic Loadings is to encourage establishment of goals for reductions at the beginning of the planning process. She acknowledge that OAR’s efforts were in an early stage. She reported that, at the next meeting of the NEJAC, her office planned to work with OW to discuss particulate matter being transferred from air to water, monitoring requirements, and ideas for educational activities.

Exhibit 3-2

EPA INDOOR ENVIRONMENTS ASTHMA PROGRAM

The U.S. Environmental Protection Agency's (EPA) Indoor Environments Asthma Program features a National Awareness and Education Campaign that involves a national advertising campaign to increase awareness about asthma and how to manage its symptoms effectively. The initiative seeks to identify and replicate the most effective asthma programs that already are in place. Under the program, EPA is directing resources to programs that exhibit a positive track record related to the prevention and management of asthma. The program incorporates partnerships with national, state, and community-based efforts associated with environmental justice populations. Because one activity may not be suitable for all populations, EPA is establishing partnerships with entities that can reach target audiences.

The national advertising campaign involves a multimedia approach and a partnership with the Ad Council. Advertisements are being pilot-tested in urban Hispanic and African American communities in New York, New York; Chicago, Illinois; Miami, Florida; San Antonio, Texas; and New Haven, Connecticut. The posters and public service announcements, which are available in both Spanish and English, encourage people to actively manage their asthma on a daily basis. Members of affected communities were asked to comment on the design of the ads, and a number of their suggestions were incorporated. Information hotlines also have been established in the pilot cities.

Other partnerships supported by EPA that target asthma in environmental justice communities include:

- San Francisco, California, Department of Health emergency room education and follow-up program: The program strives to match asthma patients with a respiratory care therapist who will advise them how to manage their asthma daily and follow up on their cases three to six months later to track the patents' progress. The program is being developed in partnership with the American Respiratory Care Foundation and includes a significant evaluation component for measuring the success of the program.

- The Children's Hospital, Philadelphia, Pennsylvania, in-home asthma education and management program: Developed in conjunction with the Bureau of Primary Health Care, an arm of Philadelphia's Health and Human Services, the program provides medical services to the underserved and uninsured; educates patients in the management of asthma; works with patients to provide services, rather than dispensing medication; and focuses on establishing durable daily practices and limiting exposure to indoor triggers.

Programs aimed at reducing school-related asthma include:

- National Organization of Black County Officials pilot study in communities in Mississippi, Alabama, and Louisiana: The goal of the program is to build awareness of issues related to asthma in communities and to encourage schools to adopt better indoor air practices.

- Open Airways Program developed by the American Lung Association: The program is designed to reach out to and work with minority communities to improve air quality in schools.

Examples of awareness and education programs being implemented through the Hispanic media include:

- Hispanic Radio Network, Inc.: The network, an educational radio program, broadcasts advertisements about asthma and presents novellas or short stories about people in real-life situations who must deal with asthma. The Hispanic Radio Network also sponsored an information hotline on asthma.

- The National Council of LaRaza (LaRaza) program: In conjunction with EPA, LaRaza is working with educators to provide health-care advice to Hispanic children and their parents. The effort is unique in that instructional materials were developed in Spanish, rather than translated from English.

Ms. Craig commented that she had hoped to have more revisions ready to submit to the subcommittee for review, but, unfortunately, the revisions were not ready in time to be submitted during the meeting. She assured the members that, over the coming year, she would work to establish pilot programs to evaluate the guidance. She stated that grants from EPA and other sources would be used to support such efforts.

Ms. Craig also reported that, as part of a pilot study, EPA was working with an air advisory committee that had been established by Michael R. White, Mayor of Cleveland, Ohio. The project would examine both indoor and outdoor sources of air pollution, she explained.

Ms. Gauna asked whether EPA had received any comments on the relationship between the proposed guidance for reducing toxic loadings and EPA's guidance on addressing complaints filed under Title VI of the Civil Rights Act of 1964. She also commented that it was not clear when the guidance was to be announced in the Federal Register. Ms. Craig responded that, as yet, there had been no discussion of the announcement of the proposed guidance in the Federal Register. Continuing, she stated that the current focus was on the conduct and evaluate of the pilot studies. In terms of the relationship between the two guidance policies, Ms. Craig acknowledged that both guidances discuss area-specific agreements.

Mr. Damon Whitehead, Earth Conservation Corps, asked how the toxics reduction program considers Title VI violations. He requested clarification on the role of the program in the analysis related to Title VI. Stating that comparing the two programs resembles comparing apples and oranges, Mr. Whitehead said that Title VI pertains to permitting, while the toxics reduction program establishes incentives for reducing pollution. Mr. Brenner acknowledged that, although compilation of the guidance was conducted independently of preparation of the Title VI guidance, the question had been raised during the development of the Title VI guidance whether mitigation efforts should be considered in deciding if basic rights have been violated. Mr. Whitehead countered that either a person's rights have been violated or they have not; it is a clear-cut issue, he declared. Mr. Whitehead then stated that mitigation should be in a part of the remedy; the issue is not whether the violation occurred. Mr. Brenner stated that such issues were being discussed.

Ms. Rosa Hilda Ramos, Community Leader, Community of Cataño Against Pollution, asked whether it would be possible to establish a pilot study in Puerto Rico. Ms. Craig responded that, after the pilot study in Cleveland has been completed, additional pilot studies were to be initiated as more resources become available. She said that the Agency would keep Puerto Rico in mind as a candidate for a subsequent pilot study.

4.0 ACTIVITIES OF THE SUBCOMMITTEE

This section discusses the activities of the subcommittee, which included discussion of the progress of the four work groups of the subcommittee, the establishment of priorities among the action items identified during the October 2000 meeting of the subcommittee held to discuss power plants in Puerto Rico, and development of the mission statement of the subcommittee.

4.1 Work Groups of the Subcommittee

Members of the Air and Water Subcommittee met with their respective subcommittee work groups – specifically, the work groups on Cumulative Permitting, Fish Consumption, Public Utilities, and Urban Air Toxics. A representative of each work group then presented to the other members of the subcommittee a status report on the progress of that work group.

4.1.1 Work Group on Cumulative Permitting

The Work Group on Cumulative Permitting, chaired by Ms. Cuykendall, discussed four primary issues: (1) the draft guidance for reducing toxic loadings prepared by OAR; (2) the revised Title VI guidance prepared by EPA's Office of Civil Rights; (3) the public participation requirements under the Tier 2 Clean Fuels Initiative; and (4) White Paper No. 3, a draft guidance on designing flexible air permits prepared by OAR. Exhibit 3-3 defines the Tier 2 initiative. The work group also noted that it is awaiting EPA's issuance in the near future of guidance on public participation.

Ms. Cuykendall stated that the Work Group on Culmulative Permitting could be retained, except that she suggested it might be appropriate to revise its scope. Ms. Cuykendall commented that it might be appropriate to dissolve the work group, stating that another work group may be able to assume the responsibilities of the current work group. She reminded the subcommittee that the work group had been convened to address issues

related to cumulative permitting. She identified two issues that should be considered by the work group:

- Federal requirements for issuing permits for building schools, which had been discussed during the public comment period held on the previous evening.
- The framework for assessing the environmental justice issues presented on the previous day by Mr. Barry Hill, Director, EPA Office of Environmental Justice. Ms. Cuykendall emphasized that those individuals who had expressed frustration and annoyance because the NEJAC had not had the opportunity to review the proposed national policy guidance on environmental justice were concerned about the process by which the policy is being developed, rather than the substance of the document. She stressed that it was important that the work group focus on substance.

Ms. Gauna, the only other subcommittee member serving on the work group, stated that she was shocked that issues related to air permitting do not have a higher profile among the members of the subcommittee. She stressed that, overwhelmingly, environmental justice issues are permitting issues. She stated that it was crucial to move "such issues higher on the agenda," given the amount of interest in it. Ms. Guana said that she would be pleased to join the Work Group on Public Utilities if the Work Group on Cumulative Permitting were dissolved. She added, however, that she was concerned that several significant permitting issues, such as the Tier 2 Clean Fuels Initiative, may not be appropriate subjects for a group that is focused on public utilities to consider. She urged that the subcommittee consider dealing with permitting in a broader context than that of public utilities. Ms. Gauna strongly recommended that the work group be retained because EPA was to undertake several significant initiatives during in the upcoming year.

Ms. Gauna encouraged the expansion of the subcommittee to include representatives of other stakeholder groups. With Ms. Cuykendall leaving the subcommittee, Ms. Gauna pointed out, she herself would become the only remaining member of the subcommittee serving on the work group. Ms. Ramos urged that representatives of affected communities be invited to participate in the work group. Ms. Gauna stated that the work group would continue to identify issues and comment on EPA's approaches to permitting.

Exhibit 3-3

TIER 2 CLEAN FUELS INITIATIVE

In December 1999, the U.S. Environmental Protection Agency (EPA) announced new general emission standards (Tier 2 standards) for passenger cars, light trucks, and larger passenger vehicles. The program focuses on reducing the emissions most responsible for the ozone and the effect of particulate matter from those vehicles. The program also will, apply for the first time the same Federal standards to all passenger cars, light trucks, and medium-duty passenger vehicles.

In addition, the Tier 2 Clean Fuels Initiative will reduce average levels of gasoline sulfur emissions nationwide. Refiners will install advanced refining equipment to remove sulfur during the production of gasoline. Importers of gasoline will be required to import and market only gasoline that meets the sulfur limits.

Ms. Gauna then summarized the work group's discussions about the Tier 2 Clean Fuels Initiative, on which Mr. William Harnett, Acting Director, Office of Air Quality Planning and Standards, EPA Region 4, had presented a status report for the subcommittee. She stated that the requirements may pose an unfair or disproportionate impact on environmental justice communities. According to Ms. Gauna, Mr. Harnett had announced that an information disclosure process was to be established that will provide to agencies information on where there will be access on a county-by-county basis. In terms of baseline information, she continued, EPA will examine information from counties about local emissions from mobile sources. An evaluation of how emissions may change in light of the Tier 2 Clean Fuels Initiative then can be performed, she said. Ms. Gauna noted that Mr. Harnett had stated that educational programs would be developed to inform communities about the permitting process.

There had been little discussion of Title VI because the NEJAC as a whole, had commented on the guidance, Ms. Gauna reported. The U.S. Department of Justice (DOJ) had taken the position that it cannot involve itself in Title VI complaints until EPA makes a finding of disparate impact in response to an administrative complaint. Ms. Gauna stated that the alternative to involvement on the part of DOJ is private litigation. She reported that the Title VI guidance likely would not be reissued until summer 2001.

Ms. Gauna then discussed White Paper No. 3, a draft guidance on allowing flexibility in permitting under the Title V Operating Permits Program that was prepared by EPA OAR. Exhibit 3-4 describes the draft guidance. Ms. Gauna emphasized that the guidance is a significant initiative of the agency that requires the immediate attention of the subcommittee. She stated that the guidance should be evaluated within the context of a pilot project. There is some concern, she added, that advance approvals of flexible permits will be issued before new data on health effects become available that may contradict the data on which permit conditions were based.

Exhibit 3-4

WHITE PAPER NO. 3: DRAFT GUIDANCE ON DESIGNING FLEXIBLE AIR PERMITS

On August 7, 2000, the U.S. Environmental Protection Agency (EPA) Office of Air and Radiation (OAR) issued a draft guidance on designing flexible permits for certain sources of air pollution. The guidance provides to state and local permitting authorities information about how to design flexible permits for sources regulated under the Title V Operating Permits Program. According to EPA, flexible permits are intended for sources that make frequent and quick operational changes, generally to meet changes in market demand. Examples include the pharmaceutical and computer industries.

While the draft guidance is not mandatory, it encourages state and local permitting authorities to use flexible permits when so allowed under regulations and as resources and needs dictate. The guidance does not exempt sources from fully complying with the requirements of Title V of the Clean Air Act.

A copy of the draft guidance is available at *<http://www.epa.gov/ttn/oarpg/>*.

4.1.2 Work Group on Fish Consumption

The subcommittee's Work Group on Fish Consumption, chaired by Mr. Leonard Robinson, TAMCO, had discussed two primary tasks for the upcoming year: a review of EPA OW's National Report on State Consistency, which addresses issues related to fish consumption, and efforts to provide significant influence in the planning of the next NEJAC meeting, scheduled for December 3 through 6, 2001 in Seattle, Washington, which will focus on risk communication and management in environmental justice communities. The work group plans to incorporate the views of the public into the planning process for that meeting, reported Mr. Robinson.

Mr. Robinson conducted a discussion of the activities of the work group that included a conference call with individuals who had been unable to attend the meeting. Other members of the Air and Water Subcommittee who were present during the discussion were Ms. Marianne Yamaguchi, Director, Santa Monica Bay Restoration Project; Ms. Carter; and Ms. Jaramillo. Ms. Minerva, Ms. Walker, and Mr. Moses Squeochs, Confederate Tribes and Bands of the Yakama Nation and a member of the Indigenous Peoples subcommittee, also attended the session.

Mr. Robinson then reported that the work group had reviewed the preliminary agenda for the December 2001 meeting of the NEJAC in Seattle and identified 10 items to be incorporated into the final agenda:

- Models of successful risk communication efforts provided by various stakeholders.
- Consistency and adequacy of risk assessment in fish consumption studies (the limiting factor usually is resources, rather than policy).
- Case studies, including Columbia River, Wilamette River Keeper, Great Lakes National Program Office, Chesapeake Bay, Gulf Program, St. Lawrence Basin, an Alaska study, and a local Seattle study.
- Demonstration of applicable technologies, including the use of geographic information systems to map areas for which fish advisories had been issued.
- Grant opportunities for research on fish consumption in environmental justice communities; grants from all Federal agencies that are related to fish consumption, specifically in environmental justice communities; may be presented as a workshop.
- Research on the health effects of fish consumption in environmental justice communities, including studies of minor, major, and long-term effects.
- Prevention and intervention strategies and cultural issues.

- A video, PowerPoint, or poster presentation, developed with the support of the Region 10 Tribal Conference to replace a site tour that may present logistics problems.

- Remediation technologies – remedies and solutions.

- Regulatory approaches – the air and water program, total maximum daily loads, quantities of fish, and multimedia approaches.

4.1.3 Work Group on Public Utilities

The Work Group on Public Utilities, chaired by Dr. Greenbaum, had discussed three potential action items, presented by Dr. Greenbaum, for the work group, specifically:

- Development of a guide for environmental justice communities that provides emissions data and information about the enforcement status of both new and existing facilities.

- Review of four legislative bills intended to reduce emissions further.

- Review of Federal government programs that examine demand efficiency and management.

The work group also urged that Puerto Rico must be considered during all discussions related to public utilities, reported Dr. Greenbaum.

Dr. Greenbaum commented that the work group was relatively new and still was organizing. Other members of the subcommittee who participated in the work group were Dr. Gelobter and Ms. Ramos. Mr. Greenbaum had expressed agreement with Ms. Gauna that it is difficult for the work group to make informed recommendations when some stakeholders are not represented during its discussions. He expressed his support for the approach taken by the Work Group on Fish Consumption, which provided a conference call for individuals who were unable to attend the meeting.

Dr. Greenbaum state that he agreed with Ms. Gauna that permitting is part of a much larger issue. He stated that there are two drivers to the permitting concerns related to public utilities: (1) a series of changes, pressures, and trends, such as deregulation, fluctuations in price, and concern about existing coal-fired facilities, most of which are near or in urban areas, in the public utilities industry that have radical implications for environmental justice communities and (2) the siting of many smaller facilities in communities and neighborhoods and the emergence of renewable and cleaner resources.

Dr. Greenbaum had stated that the work group should obtain from EPA: (1) data on existing public utilities, including the number, locations, and enforcement status and (2) summaries of four proposed legislative bills intended to reduce emissions further. Continuing, Mr. Robinson reported that Dr. Greenbaum then had stated that the work group's inquiry into the four proposed bills was intended primarily to support an analysis of the bills, rather than to be an effort to lobby Congress.

4.1.4 Work Group on Urban Air Toxics

The Work Group on Urban Air Toxics of the subcommittee, chaired by Mr. Whitehead, who also reported on the discussion held by the group, had discussed four primary issues. Mr. Whitehead described those issues as follows:

- Results of EPA's National Air Toxics Assessment (NATA) national-scale assessment, a report which is to be issued in early 2001.

- Information needed by the work group about the Agency's urban air toxics monitoring strategy.

- The structure of state, local, and tribal (S/L/T) programs that deal with urban air toxics.

- The anticipated EPA diesel retrofit program.

The national-scale assessment report, which is under review by EPA's Science Advisory Board and expected to be made final in early 2001, presents data on emissions inventories and ambient concentrations from four pilot cities around the country: Raleigh, North Carolina; Detroit, Michigan; Tampa, Florida; and Portland, Oregon. Mr. Whitehead stated that the subcommittee would be called upon to provide comments when the report becomes available. Exhibit 3-5 describes the NATA program.

Continuing, Mr. Whitehead commented that representatives of EPA also had presented to the work group a briefing on its air monitoring strategy for urban areas. Mr. Whitehead stated that the presenters had noted that, when data are lacking, EPA uses modeling, adding that when actual data are obtained, they often indicate that the modeled emissions had overestimated the actual emissions. The general consensus among stakeholders about monitoring has been that additional data are required to fill data gaps, identify problem areas, and help develop better

Exhibit 3-5

NATIONAL AIR TOXICS ASSESSMENT PROGRAM

The National Air Toxics Assessment (NATA) program is one of four components identified in the U.S. Environmental Protection Agency's (EPA) Office of Air and Radiation (OAR) Integrated Urban Air Toxics Strategy to reduce air toxics. The NATA program will help EPA identify areas of concern, characterize risks, and track progress in achieving the agency's overall goals for air toxics programs. Activities under NATA include expansion of monitoring, improvement in and periodic updating of emissions inventories, improvement of air quality, multi-media and exposure modeling, continued research on health effects and exposures to both ambient exposure and assessment tools. The activities will provide EPA with improved characterization of risk posed by air toxics and risk reductions that are achieved through the imposition of emissions control standards and the adoption of initiatives for stationary and mobile-source programs.

models, said Mr. Whitehead. He then noted that the work group had requested that EPA OAR provide information about how the Agency plans to spend the $16 million it has allocated for monitoring of air emissions under the urban air toxics strategy.

Mr. Whitehead then described the process EPA applied in drafting the integrated urban air toxics strategy, which had been mandated by statute and on which the NEJAC had provided comments. He also announced that Mr. Christopher Stoneman, EPA Office of Air Quality Planning and Standards, had replaced Ms. Laura McKelvey, OAR, as the EPA point of contact for the urban air toxics strategy. Noting that EPA had established a work group made up of representatives of various stakeholder groups, Mr. Whitehead stated that Dr. Bunyan Bryant, Professor, School of Natural Resources and Environment, University of Michigan, and Dr. Elaine Barron, Paso Del Norte Air Quality Task Force, also contributed to the efforts of the EPA work group. He reported that the work group was providing comments on methods of structuring the urban air toxics program to deal with risk. Exhibit 3-6 describes the urban air toxics strategy.

Mr. Whitehead requested that the other members of the subcommittee express their views about how to proceed. For example, he said, the work group needs assistance in identifying strategies to determine how to reduce risk in urban areas. He said that the national screening-level assessment being conducted under NATA would be used as a resource because it would help characterize risks posed by air toxics nationwide by evaluating potential health risks associated with inhalation exposures to 33 hazardous air pollutants and diesel particulate matter (PM). Mr. Whitehead then stated emphatically that it was important that the NEJAC have a role in developing the program.

Mr. Whitehead then reported that the work group had discussed EPA's work plan for S/L/T programs that deal with urban air toxics. The work plan, he noted, had been developed in September 2000 by the Clean Air Act Advisory Council (CAAAC). Dr. Barron and Dr. Bryant also had been involved in the development of that work plan, he added. Mr. Whitehead then explained that the work plan describes in detail the types of programs that S/L/T communities can develop stated that it was anticipated that the work plan will be final by February 2001. The Work Group on Urban Air Toxics would provide comments on the work plan, he announced.

The work group also had discussed the issue of mobile sources compared with stationary sources, Mr. Whitehead continued, adding that implementation of the anticipated diesel retrofit program, described in Exhibit 3-7, was expected soon. The program, Mr. Whitehead observed, would be of great significance for the NEJAC and environmental justice communities. Mr. Whitehead stated that the subcommittee should obtain more information about the program and urged that EPA promote it to urban communities. He emphasized the importance of the subcommittee's support for the voluntary diesel retrofit program. Mr. Whitehead also noted that the work group also had discussed the involvement of local communities in the program.

While the work group had not made any immediate recommendations or prepared any resolutions to forward to the NEJAC, said Mr. Whitehead, he anticipated that a need for a resolution on the diesel rule would arise in the upcoming year. Mr. Brenner responded that the subcommittee might not have time to complete the resolution process because the rule was to be issued very shortly. However, suggested Mr. Brenner, the subcommittee could focus on the upcoming off-road diesel rule. Mr. Whitehead agreed, adding that the work group also would provide comments on the national-scale assessment report when it is issued.

Exhibit 3-6

U.S. ENVIRONMENTAL PROTECTION AGENCY'S INTEGRATED URBAN AIR TOXICS STRATEGY

The U.S. Environmental Protection Agency's (EPA) Integrated Urban Air Toxics Strategy focuses on reducing the threats to human health posed by toxic air pollutants in urban areas in which large numbers of people live and work near a variety of sources of pollution. In the strategy, EPA outlines actions that it will take in the future to reduce emissions of air toxics and improve its understanding of the health threats posed by air toxics in urban areas.

EPA's goal for the strategy includes the reduction of risks of cancer and noncancer health threats associated with air toxics in urban areas. Several objectives of the strategy are:

- Reduce by 75 percent the risk of cancer associated with air toxics from both large and small commercial and industrial sources.
- Substantially reduce noncancer health risks (such as birth defects) associated with air toxics from small commercial and industrial sources.
- Address and prevent disproportionate effects of air toxics, such as those in areas known as "hot spots," and effects on sensitive populations in urban areas, including children, the elderly, and members of minority or low-income communities.

Exhibit 3-7

VOLUNTARY DIESEL RETROFIT PROGRAM

To address the nationwide concern about pollution from diesel engines, EPA developed a program to significantly reduce pollution from new diesel engines. The program consists of a two-step approach. First, EPA will set new emission standards for diesel engines that will take effect in 2004. Then the Agency will establish even more stringent emission standards for diesel engines beginning in 2007, in combination with requiring the use of low sulfur diesel fuel. However, because these rules will not begin to take effect right away, EPA developed the Voluntary Diesel Retrofit Program to help make a difference in the immediate future. The program will address pollution from diesel construction equipment and heavy-duty vehicles that are currently on the road today.

Additional information on the voluntary diesel retrofit program is available at *<http://www.epa.gov/OMS/retrofit>*.

4.2 Power Plants in Puerto Rico

The subcommittee discussed the establishment of priorities among action items identified during the Air and Water Subcommittee meeting on power plants in Puerto Rico that had been held in New York, New York, on October 18, 2000. That meeting had focused on air quality and human health issues in the San Juan, Puerto Rico metropolitan area, where such problems could attributable to a variety of industrial and commercial activities.

Ms. Ramos commented that the priorities of communities had not been included among the action items developed during the October meeting. Speaking for such communities, she stressed that their priorities are to urge industries in Puerto Rico to use cleaner fuel that has a 0.5 percent sulfur content and supporting the implementation of a requirement that urging that the commonwealth to revise its state implementation plan (SIP) to achieve a mass emission limit of 0.1 pound per million British thermal units (Btu).

Ms. Cuykendall reminded the members of the subcommittee that EPA and the Puerto Rico Electric Power Authority (PREPA) were engaged in litigation about opacity standards for stationary sources and facilities. Ms. Ramos added that the Clean Air Act requires that states reconcile mass emissions standards by complying with opacity requirements. Charging that the violations by

PREPA were criminal, Ms. Ramos urged that EPA order Puerto Rico to establish a mass emissions standard that is as restrictive as those required under Federal law in other cases.

Mr. William Muszynski, Deputy Regional Administrator, EPA Region 2, stated that the primary action item for EPA is to monitor the Federal government's 1999 consent decree. Mr. Muszynski reported that the U.S. District Court has been asked to take additional action to ensure compliance. Stating that he considers the debate to concern the proper level of opacity, he then explained that the issue is one about old power plants. He then listed other issues the agency considers to be of higher priority. He explained that EPA first will ask that the government of Puerto Rico revise its SIP, adding that the agency believes the commonwealth will agree voluntarily to make such revisions. He also remarked that the agency considers several other long-range action items identified by the subcommittee; several of them are difficult to act upon under current circumstances, he acknowledged.

When asked whether the 1999 consent decree covers facilities throughout Puerto Rico, Mr. Muszynski responded that it does not. Ms. Gauna then asked whether the modifications of the SIP would pertain only to opacity or would encompass additional issues. Mr. Muszynski stated that the proposed revision would pertain to all areas that would help facilities in Puerto Rico achieve the 0.1 pound-per-million Btu limit.

Ms. Ramos expressed her appreciation to Mr. Brenner and other representatives of EPA headquarters for facilitating the dialogue with EPA Region 2. She commented that she had known Mr. Muszynski for 10 years and stated her belief that he is a "man of his word." Reporting that Puerto Rico had just elected a new governor, Ms. Ramos emphasized the importance of making the new governor aware of the circumstances of the relationship between EPA and PREPA. She asked that the agency develop a contingency plan under which EPA would require that Puerto Rico comply with the Federal 20-percent-opacity rule, because, she cautioned, it is not known what changes might be made under the new governor's administration. Noting that corruption is a problem in Puerto Rico, Ms. Ramos also asked that EPA investigate implications of criminal activity related to the use of dirty fuel in Puerto Rico.

Mr. Muszynski responded that EPA preferred that states, and special-status entities such as the commonwealth like Puerto Rico, voluntarily make changes in compliance plans. He assured Ms. Ramos that the agency will encourage the commonwealth strongly to voluntarily comply with the opacity rule, explaining that in its negotiations with the commonwealth, the agency would present reasons why Puerto Rico should comply with the rule, rather than attempt to force the commonwealth to comply.

Mr. Muszynski commented that PREPA is not like Consolidated Edison in New York because the governor of Puerto Rico would have more influence on the management of PREPA than would be the case in any discussions between that company and the governor of New York. If the governor of Puerto Rico considers the issue a priority, Mr. Muszynski suggested, EPA can carry out work smoothly. He noted further that, if facilities continue to be in non-compliance, EPA can notify the court that its efforts are insufficient to gain compliance. However, the agency cannot ask the court to force facilities to become cleaner, he said. The "hammer," he stated, is the fact that EPA can demonstrate cause and effect.

Dr. Greenbaum commented that he had found the October 2000 meeting in New York very helpful in understanding the situation in Puerto Rico. He stated that there did not appear to be disagreement about what must be done. Dr. Greenbaum noted that, although the list of action items developed during the New York meeting was long, the items could be grouped in two broad categories: (1) regulatory actions, including strict monitoring of compliance with the requirements of the 1999 consent degree and modification of the SIP, if appropriate, and (2) community pressure, including training of the community in detection of violations of the opacity rule, establishment of a technical team to evaluate the costs and benefits of using low-sulfur fuel and making other operational improvements at PREPA power plants, education of various audiences about the health benefits of using cleaner fuels, and enlistment of the support of the National Institutes of Health in addressing the issue. Dr. Greenbaum added that the establishment of a technical team could prove very beneficial in convincing the governor of the importance of the issue.

Ms. Jaramillo supported Dr. Greenbaum's approach of categorizing the long list of action items in two areas. She acknowledged that EPA had made a commitment to achieving the purposes of several action items that the agency had designated priority issues.

Ms. Gauna asked whether the primary pollutant of concern associated with the facilities is PM or sulfur. She also asked about attainment status. Mr. Muszynski stated that, currently, the primary pollutant of concern is sulfur. On the subject of attainment status, he reported that the

commonwealth had been in nonattainment since violations were reported in 1998 and 1999. He explained that Puerto Rico would retain its nonattainment status until the commonwealth requests that it to be changed. He added that data since have shown that the commonwealth is in compliance for particulate matter having a diameter of less than or equal to 10 microns. Dr. Greenbaum countered that it is conceivable, however, that Puerto Rico is in nonattainment for particulate matter having a diameter of less than or equal to 2.5 microns.

Ms. Ramos commented that EPA also should consider stricter emissions limits under Title V of the Clean Air Act. Mr. Muszynski explained that EPA cannot establish new emissions limits under Title V because the statute requires only that existing reporting requirements be included in a permit. Ms. Ramos reported that Puerto Rico's regulations allow the review and strengthening of emissions limits if the community can prove that it is necessary to do so.

Ms. Cuykendall commented that she does not favor making allegations of criminal activity on the basis of the information available. She stated, that if the subcommittee "goes too far," it could jeopardize the progress made in New York.

Ms. Jaramillo concluded the discussion by suggesting that the subcommittee forward to the NEJAC a letter recommending that EPA continue to take action in Puerto Rico. Ms. Ramos and Dr. Greenbaum were designated the leads for preparation of the letter. Ms. Ramos commented that a resolution would be a stronger tool for use against PREPA and for empowering EPA Region 2. Ms. Jaramillo reminded Ms. Ramos, however, that issuing a resolution requires 30 days during which the NEJAC deliberates; such a delay in the process would be undesirable, suggested Ms. Jaramillo.

4.3 Mission Statement of the Subcommittee

The members of the Air and Water Subcommittee discussed the final draft of its mission statement. After numerous changes in the wording were suggested, discussed, and accepted or rejected, the mission statement was amended to read:

> *"The mission of the Air and Water Subcommittee is to identify, review, and recommend creative, sustainable, and environmentally just solutions so that informed policy decisions can be made. In all of its efforts, the Air and Water Subcommittee will encourage active stakeholder input."*

5.0 SUMMARY OF DIALOGUE ON ENVIRONMENTAL JUSTICE

Mr. Jaramillo invited members of the subcommittee, speakers, and members of the audience to raise any issues they believed had not been addressed during the subcommittee meeting. In addition, Ms. Minerva and Mr. Brenner presented their perspectives on the future of environmental justice at the Agency under the new Administration.

5.1 Enforcement

Mr. Whitehead asked about the policy on startups of new facilities and how that policy is related to Title V and other permitting issues. Mr. Brenner responded that many of the underlying rules related to new source performance standards (NSPS) include provisions for dealing with startups and malfunctions of existing or new facilities. Mr. Harnett reported that, while most enforcement actions are initiated when a facility is found to be in violation of minimum limits, enforcement may not take place when there is a malfunction. He added that, as long as facilities minimize emissions and the effects of those emissions, they are given exemptions if the violations do not continue for an unacceptably long period of time.

Mr. Carl Edlund, Director, Planning and Permitting Division, EPA Region 6, stated that the Agency had found that, when some facilities experience one or two spills a day, such conditions appear to be a routine part of operations. However, he continued, when the situation is viewed from an enforcement perspective, such spills can indicate a problem. Consequently, EPA is developing guidance for establishing better monitoring practices, especially in communities located near facilities. Mr. Edlund acknowledged that the problem of routine spills remains unresolved. He added that requirements for better monitoring practices by facilities in the Houston, Texas ship channel and the St. Charles Parish, Louisiana area were scheduled for implementation in 2001. He also acknowledged that short-term emissions are difficult to measure.

Mr. Whitehead asked whether source pollution arising from a malfunction would not be considered a violation, as long as a facility reports the malfunction that is covered under its permit. Mr. Brenner replied that the facility must report such incidences if there is not a required rule. Ms. Elizabeth Bartlett, EPA Region 4, reported that, in reviewing Title V permits, she had found that many states include in their SIPs provisions that address source pollution arising from malfunctions.

Ms. Carter requested information about the life expectancy of old plants that continue to operate. She asked whether there was a plan for the phasing out of such facilities and their replacement with new technology. Mr. Brenner responded that the replacement of antiquated or outdated facilities, especially larger facilities, was one of the central issues under discussion by the CAAAC. Mr. Brenner reported that, currently, no provision requires that old plants be "retired" from operation. Owners of utilities often have claimed to retire plants after 30 to 40 years, he continued, adding that there are, however, many plants that are 50 to 60 years old. There is no evidence, however, that phasing out of such plants is being planned, he noted. Mr. Brenner stated that EPA's new source review programs were working to address that issue. He added that, unfortunately, the Clean Air Act does not require the use of new technology.

5.2 Public Involvement Policy

Ms. Lisa Kahn, EPA, referring to the public involvement policy, said that the policy was to be issued within several weeks for a 120-day public comment period. Ms. Kahn stated EPA would apply the policy in making decisions related to regulations, policies, and permits. She reported that the policy includes many aspects discussed by the subcommittee, including provisions for all affected parties to express their views on such issues. Ms. Kahn then stated that EPA looked forward to receiving the subcommittee's comments on the policy.

Ms. Gauna reported that public participation had been the focus of the work group on permitting's discussions. Explaining that the anticipated policy statement differs from the proposed guidance on public involvement that EPA recently issued, she recommended that the upcoming policy statement be brought to the attention of the NEJAC. Although there would not be enough time for the NEJAC or the Air and Water Subcommittee to comment on the guidance as a group, she said, members should comment on it individually.

Ms. Gauna also reported that the work group had discussed impediments to the public participation process. She said the work group had been hesitant to make any recommendations to the subcommittee because stakeholders were not well represented on the work group. She stated that other stakeholder groups, such as representatives of community groups, should be present during the discussions of the work group. Citing that early involvement is crucial to success in encouraging public participation, Ms. Gauna noted that communities not must only be called to the table from the beginning of the decision-making process, but also must have access to independent technical advice.

5.3 Transportation Subsidies

Mr. Marc Brenman, U.S. Department of Transportation (DOT), reviewed issues related to transportation subsidies. He stated that, in terms of the potential regressive effects of tolls and variable pricing, the Federal Highway Administration requires equity analysis to evaluate the potential effects of such costs on populations. For example, he explained, such analyses have found that individuals of lower income spend more time commuting to work than persons in higher income brackets. He added that there was "a spatial mismatch problem." He then reported that the state of Maryland was conducting an experiment that examines the equity impact of tolls.

Ms. Gauna asked whether DOT had investigated any differences between subsidies for commuters and those for city dwellers. She also asked what the effects on air quality were in both situations. Mr. Brenman responded that EPA Region 2 had received many complaints filed under Title VI that allege that more subsidies are provided to white, middle-income riders who commute from the suburbs to downtown than to riders in lower-income, urban communities. The complaints allege disparities in subsidies, he explained, adding that the complaints state that urban commuters receive fewer subsidies. Urban commuters, who typically commute by bus, are primarily lower-income or minority residents, he noted. Mr. Brenman acknowledged that the topic was difficult to address because Congress had earmarked funds for heavy rail systems and because of the trend toward development of light-rail systems. In addition, he said, ferry riders can obtain subsidies of up to $700 per year. DOT had begun to receive complaints about those issues, as well, he noted.

Ms. Gauna stated that "one piece missing from the puzzle" appeared to be that, if there is a disparity in subsidies and if less money is allocated to urban transportation systems than to commuter systems, the problem of overpolluting buses in urban areas then would arise. Mr. Brenman agreed, stating that one approach under examination as a resolution to the problem is a partnership among various stakeholders.

Citing a partnership established among stakeholders in the Atlanta, Georgia metropolitan area, Mr. Brenman explained that a coalition of civil rights and low-income advocacy organizations had filed a lawsuit alleging Title VI and environmental justice violations in the Atlanta area. In response, he continued, EPA Region 4 had established a partnership with the coalition, which then determined that any approach to addressing inequities should include early public participation and an equity analysis. Mr. Brenman reported that stakeholders had been involved in the process from its beginning. As part of the equity analysis, he continued, EPA Region 4 was developing a tool for transportation planners to use in improving their planning processes, he reported.

Mr. Brenman remarked that the goals of the project include changing the perception among surface transportation planners that building new roads will reduce congestion and taking an inventory of transportation needs and services. Planners therefore should examine the transportation needs of various communities and determine whether proposed remedies meet those needs, he suggested. For example, he explained, if the general tendency is to build roads, the roads will not benefit most African Americans because the percentage of African Americans who own cars is lowest among all ethnic groups in the United States. Acknowledging that the issues are "complicated," Mr. Brenman stressed the importance of examining the benefits and burdens of surface transportation in metropolitan areas and determining how those benefits and burdens can quantified.

5.4 Future of Environmental Justice

Members of the subcommittee asked Ms. Minerva and Mr. Brenner about upcoming policies and regulations that the subcommittee should consider. The members also asked Ms. Minerva and Mr. Brenner to discuss their perspectives on how the new Administration might affect the environmental justice community.

Ms. Minerva reported on three rules that OW expected to issue in the near future:

- Tribal water quality standards: Collectively, Indian country is the size of New England, but only 15 tribes have implemented Federal water quality standards. According to Ms. Minerva, EPA, with the endorsement of the tribes, had drafted the rule to cover all of Indian country. She reported that the Tribal Operations Committee recently forwarded to EPA a resolution about that rulemaking.
- Concentrated animal feeding operations (CAFO) rule: EPA released the rule on December 15, 2000. Exhibit 3-8 describes the CAFO rule.
- Sanitary sewer overflows rule: The rule requires that sewage treatment authorities create plans under which they develop methods of addressing sewage overflows.

Exhibit 3-8

CONCENTRATED ANIMAL FEEDING OPERATIONS RULE

On December 15, 2000, Ms. Carol Browner, Administrator of the U.S. Environmental Protection Agency (EPA), signed the proposed revisions of the Nonpoint Source Discharge Elimination System (NPDES) regulations and effluent guidelines for concentrated animal feeding operations (CAFO). The proposed revisions are intended to reduce the amount of water pollution generated by 26,000 to 36,000 large livestock operations. The revisions clearly define which facilities are animal feeding operations and which are CAFOs; the latter are subject to the NPDES program. Specific requirements to be included in NPDES permits that govern handling of manure at production and land application areas also are detailed in the proposed revisions.

A copy of the proposed CAFO rule is available on the EPA Office of Wastewater Management's web site at <*http://www.epa.gov/owm/afo.htm*>.

Ms. Minerva also discussed the risk communication conference to be held in May 2001 in Seattle, Washington, which was to focus on issues related to fish consumption. She explained that EPA was working with states and tribes to encourage them to test fish and inform the public of the results.

Ms. Minerva also reported that EPA OW recently had issued revisions of the national guidelines related to ambient water quality criteria (AWQC). Exhibit 3-9 describes the Revised Methodology for Deriving Health-based Ambient Water Quality Criteria. Ms. Minerva stated that states and tribes that set water quality standards should not consider only general levels of consumption when they set those standards. Rather, she said, the states and tribes also should consider the effects increased consumption has on the quality of the water body. For example, she explained, if a person consumes five times more fish than

Exhibit 3-9

REVISED METHODOLOGY FOR DERIVING HEALTH-BASED AMBIENT WATER QUALITY CRITERIA

The U.S. Environmental Protection Agency (EPA) has published revisions of the 1980 Ambient Water Quality Criteria (AWQC) national guidelines to better protect human health. The 1980 AWQC National Guidelines outlined the methodology to be used by states and tribes to develop water quality criteria based on protection of human health. The revisions of the 1980 guidelines incorporate significant scientific advances in such key areas as cancer and noncancer risk assessments, exposure assessments, and bioaccumulation in fish. The revised methodology provides more flexibility for decision making at the state, tribal, and EPA regional levels. According to EPA, it likely would result in more stringent criteria for bioaccumulative compounds and generally similar values of nonbioaccumulative compounds.

The AWQC revised methodology is available on line at <*http://www.epa.gov/waterscience/humanhealth*>.

average, the water quality standard should protect that individual five times more strictly than those who consume average amounts of fish are protected. Ms. Minerva assured Ms. Ramos that the methodology document applies to all surface-water bodies and is not limited to rivers and lakes.

Mr. Brenner stated that, as a nonpolitical appointee, he would continue to serve in his position under the new Administration. He identified two items that EPA was expecting to pursue under the new Administration: (1) issuance of the mercury regulatory determination scheduled by December 15, 2000 and (2) completion of rulemaking on the voluntary diesel retrofit rule. Mr. Brenner presented information about another rulemaking related to off-road diesel generators, including construction vehicles, that is to be initiated in 2001. The states had asked EPA for help in regulating such vehicles, Mr. Brenner said. He encouraged the members of the subcommittee to participate in the rulemaking, remarking that the goals of the members of the subcommittee are well aligned with the priorities of EPA's air programs.

Ms. Gauna inquired whether there may be a potential conflict between reinvention initiatives and environmental justice. She asked whether both can be accomplished responsibly and wondered how the subcommittee's views might be received by EPA under the Bush Administration. Mr. Brenner responded that he had worked with the NEJAC to find ways to incorporate the concerns of the NEJAC into the initiatives of EPA OAR. He stated that the goal of that office is to achieve reductions in pollution that are meaningful to environmental justice communities. As an example, he described an initiative in New York City under which community groups are asked to identify areas in which reductions could be achieved. Mr. Brenner said that he had sensed a willingness in those communities to make the project work.

Dr. Bryant commented that in the early days of the Clinton administration, representatives of the environmental justice community had met with Mr. William Riley, the EPA Administrator appointed by George Bush, and had asked that EPA make environmental justice a high priority among the goals to be explored during the transition to the Clinton Administration. He urged that the new Bush Administration be reminded that support for a national approach to environmental justice began under a Republican administration and that environmental justice should continue to have a high priority. Dr. Bryant said that stakeholders in environmental justice may have only "one shot at this."

5.5 Vice Chair of the Subcommittee

Ms. Jaramillo asked members of the subcommittee to nominate one member to serve as vice chair of the subcommittee. Ms. Cuykendall nominated Ms. Gauna. Ms. Gauna commented that she would be pleased to take on the responsibility, but noted that she was new to the subcommittee. Ms. Ramos nominated Dr. Greenbaum, who declined. Dr. Bryant then moved that nominations be closed. The members of the subcommittee unanimously elected for Ms. Gauna vice chair.

5.6 Manual for Effective Community Involvement in Environmental Justice Issues

Dr. Bryant, who was leading the effort to develop a guidance manual for environmental justice communities, reported that two graduate students at the University of Michigan might be able to contribute to the manual. He said that he would coordinate a meeting between EPA and the students within the coming two weeks to discuss their involvement further.

6.0 SIGNIFICANT ACTION ITEMS

This section summarizes the action items the subcommittee adopted.

- ✓ Requested that EPA OAR provide information about how that ofice plans to spend the $16 million that the agency allocated for the monitoring of air emissions under the urban air toxics strategy.
- ✓ Requested that EPA OAR provide information about existing public utilities that includes their number, locations, and enforcement status.
- ✓ Requested that EPA OAR provide a summary of four legislative bills intended to reduce air emissions further.
- ✓ Recommended that EPA OAR continue pursuing the actions identified by the Air and Water Subcommittee and EPA OAR during the meeting of the subcommittee held in New York in October 2000 to examine issues related to the reduction of the sulfur content of fuels burned in coal-fired power plants located in Puerto Rico.