



ASSOCIATE ADMINISTRATOR FOR POLICY

WASHINGTON, D.C. 20460

April 12, 2024

Dr. Na'Taki Osborne Jelks, PhD
Mr. Jerome Shabazz
Co-Chairs
National Environmental Justice Advisory Council
1442 Richland Road SW
Atlanta, Georgia 30310

Dear Dr. Jelks and Mr. Shabazz:

I am grateful for the August 2023 recommendations the National Environmental Justice Advisory Committee (NEJAC) provided to Administrator Regan to more fully integrate environmental justice (EJ) into National Environmental Policy Act (NEPA) trainings for the EPA staff, federal and state agency partners, and communities. Your thoughtful and informative recommendations are crucial in helping us meet Administrator Regan's commitment to ensure that the country's environmental laws—and the policies implemented under them—deliver benefits to all individuals and communities, including those historically marginalized, overburdened, underserved, and living with the legacy of structural racism. I would like to provide an update on our implementation of your recommendations.

In March 2022, I requested the NEJAC's assistance in developing recommendations to improve the EPA's internal and external training related to the integration of NEPA and environmental justice, working closely with our Office of Federal Activities (OFA). OFA oversees the EPA's national NEPA program, including the EPA's review of other federal agencies' environmental impact statements (EIS) and certain other actions, as required by [Section 309 of the Clean Air Act](#).¹ The EPA's reviews focus on evaluating the technical adequacy of information presented in the NEPA document and identifying and recommending appropriate measures to avoid and mitigate significant environmental impacts associated with the proposal. OFA and regional NEPA programs collaborate with subject matter experts in other EPA programs during the review process, including environmental justice experts in the Office of Environmental Justice and External Civil Rights (OEJECR) and the EPA regional offices. Training for the EPA's staff is a central part of our efforts to provide consistent reviews of NEPA documents.

¹ For additional information on EPA's review process under Section 309 of the Clean Air Act, visit <https://www.epa.gov/nepa/epa-review-process-under-section-309-clean-air-act>.

In August 2023, the NEJAC provided 53 recommendations to improve and enhance the EPA's NEPA training. These recommendations fall into two categories: 1) internal training for the EPA staff reviewing NEPA documents under our CAA Section 309 authority ("NEPA/CAA Section 309 reviewers") and 2) external training for federal and state governments and communities. Within each category, the NEJAC provided recommendations focused on approaches and strategies for training, topics and content of training, and approaches to determine the effectiveness of training. The recommendations provide an array of actions for the EPA to consider, including but not limited to, the following: improve existing NEPA training; develop new training to capture evolving topics and knowledge on environmental justice; incorporate community expertise; and evaluate whether training is leading to improved outcomes.

The EPA appreciates the NEJAC's detailed recommendations, and we have been carefully considering each of the NEJAC's recommendations. The enclosure to this letter provides a detailed response. Below, I would like to share some examples of how we are putting your recommendations into practice:

- In September 2023, OFA hired a Senior Environmental Justice and NEPA Coordinator to support consideration and implementation of the NEJAC's recommendations, to improve EPA's reviews of federal agencies' EJ analyses and to increase our collaboration with other federal agencies on considering EJ in decision-making.
- In Fall 2023, OFA in partnership with OEJECR started developing advanced training on applying EJSscreen to NEPA/CAA Section 309 reviews.
- In January 2024, OFA and OEJECR started office hours for EPA staff on EJ and NEPA/CAA Section 309 reviews.
- In Spring 2024, OFA started creating a NEPA and EJ training plan to ensure ongoing accountability for implementation of the NEJAC's recommendations.
- For its May 2024 course, OFA updated its Introduction to NEPA training for NEPA/CAA Section 309 reviewers by adding new sub-unit on CAA Section 309 review of EJ issues, incorporating polls and quizzes, and reducing ancillary material.
- Targeted for delivery in Fall 2024, OFA is developing advanced training materials on topics including, but not limited to, meaningful engagement with communities, equitable mitigation strategies, data sources and reliability, and considering environmental justice during the scoping process.

We look forward to ongoing discussions and advice from the NEJAC as we continue to advance environmental justice and equity goals in the EPA's NEPA program. For any questions or comments, please feel free to contact Ms. Sumi Selvaraj, Senior Environmental Justice and NEPA Coordinator for EPA's NEPA program at email selvaraj.sumi@epa.gov or telephone (202) 564-0086.

Sincerely,



Vicki Arroyo

Enclosure

Enclosure: The EPA's Response to the NEJAC's NEPA Training Recommendations

The EPA has organized its response to the NEJAC's August 2023 NEPA training recommendations into three sections: 1) implementation of internal training recommendations, 2) implementation of external training recommendations, and 3) implementation constraints and opportunities. Each section describes actions the EPA is implementing or will implement through its programs and available resources with reference to relevant NEJAC recommendations. The response concludes with an overview of how the EPA will ensure ongoing implementation and accountability regarding these recommendations.

Implementation of Internal Training Recommendations

The NEJAC recommended several topics and approaches to strengthen internal training for EPA NEPA/CAA Section 309 reviewers and ways to evaluate the effectiveness of training. The EPA is implementing the following actions through its NEPA program:

- **Updates to Introduction to NEPA for NEPA/CAA Section 309 Reviewers training course (NEJAC Recommendations I.1.1 and I.1.4):** The NEJAC recommended strengthening the content and delivery of OFA's Introduction to NEPA for NEPA/CAA Section 309 Reviewers (Intro to NEPA) course and updating training content often to keep up with emerging concerns and methodologies. OFA revises the Intro to NEPA course each year in response to student feedback and emerging issues and priorities that affect the NEPA review process. In the August 2023 version of the course, OFA implemented some of the revisions suggested by the NEJAC in recommendation I.1.1, such as removing the historical background of the EPA from the live training. Instead, students completed the asynchronous e-learning module with the historical background prior to the course. OFA will incorporate the NEJAC's recommendations on reducing ancillary material, using polls and quizzes to better reinforce key material, and revisiting learning objectives at the beginning and end of each day in upcoming versions of the Intro to NEPA training. OFA is also revising the "emerging issues" module with a sub-unit on CAA Section 309 review of EJ issues and analyses. The next Intro to NEPA course is scheduled for May 2024 and will incorporate these and other recommendations from the NEJAC.
- **Intermediate and advanced training for NEPA/CAA 309 reviewers (NEJAC Recommendations I.1.2, I.1.3, I.1.4, I.1.6, I.2.3, I.2.4 I.2.5, I.2.6, I.2.7, I.2.8, I.2.10, I.2.13, I.2.14, I.2.15, I.2.16):** The NEJAC recommended several topics and approaches for intermediate and advanced training, such as case studies of conducting EJ analyses or identifying affected communities, guidance on ensuring community review and input in the process, evaluating data reliability, and equitable mitigation strategies. The EPA's NEPA program has initiated several actions to develop intermediate and advanced level training for NEPA/CAA 309 reviewers that incorporate many of these recommendations. In Fall 2023, OFA began developing an advanced EJScreen training for NEPA/CAA Section 309 reviewers in partnership with OEJECR. The advanced EJScreen training will be a self-paced, online course with case study examples to support and educate experienced NEPA/CAA Section 309 reviewers. Students will learn about the use and application of data from EJScreen to improve environmental project reviews and promote environmental justice under the EPA's NEPA/CAA 309 reviews. Target completion date for the training is June 2025.

OFA and OEJECR also started developing a new advanced EJ training course for NEPA/CAA Section 309 reviewers that will incorporate parts of these recommendations. The advanced training, scheduled for Fall 2024, will include in-depth content on the environmental justice historical context and principles as they apply to NEPA, cumulative impacts, and evaluating approaches to and effectiveness of meaningful engagement. The training will teach NEPA/CAA Section 309 reviewers how to evaluate environmental justice issues during project scoping, identification of disproportionate impacts on communities with environmental justice concerns, and analysis of alternatives and equitable mitigation strategies. OFA is developing case studies to explain complex issues, such as analyzing air quality impacts to overburdened communities when the project is meeting national air quality standards. OFA is leading the development and implementation of the intermediate/advanced training for NEPA/CAA Section 309 reviewers and will work with OEJECR to create training content and resources.

The NEJAC also suggested intermediate/advanced training to cover the evolving legal landscape around NEPA. In response to this recommendation, the OFA has initiated discussions with the EPA Office of General Counsel (OGC) to provide training, in coordination with OEJECR, that is up to date on the current legal landscape. Topics will include the EPA and executive branch policy developments and precedents under [*Executive Order 14096 Revitalizing Our Nation's Commitment to Environmental Justice for All*](#) and related executive orders, case law (including Environmental Appeals Board jurisprudence), CEQ regulations implementing NEPA, federal agencies' NEPA implementation procedures, NEPA policy, and interpretation and implementation of the Fiscal Responsibility Act of 2023 (P.L. 118-5).

Finally, OFA is surveying the NEPA program's internal EJ and NEPA workgroup—consisting of staff from OEJECR and NEPA/CAA Section 309 reviewers that lead EJ reviews of EISs from across the regions and headquarters—for input on training topics and resource needs. OFA will use this input and the NEJAC recommendations to develop additional intermediate/advanced training in Fiscal Year 2024 and 2025.

- **EJ and NEPA office hours and additional offerings of in-person and virtual training options (NEJAC Recommendation I.1.2):** In response to the NEJAC's recommendation to offer regular office hours, OFA and OEJECR started monthly online office hours on EJ and NEPA/CAA Section 309 Reviews in January 2024. The office hours provide an open forum for NEPA/CAA Section 309 reviewers to discuss questions related to environmental justice issues identified in other federal agency's EIS documents and raise question and topics regarding EJ and NEPA 309 reviews for headquarters' awareness. Three online office hours that have been held since starting, with an average of 20 participants per session. Topics of discussion have included considering impacts to environmental justice impacts to populations who do not live at the project site, application of EJSscreen in NEPA/CAA Section 309 reviews, and meaningful engagement approaches. The intent is for these office hours to gradually develop into a full-fledged, EJ community of practice on NEPA.

The NEJAC also recommended the EPA consider offering a mix of online and in-person training. In September 2023, OFA hosted the Biennial EPA's National Community of Practice Workshop.

This hybrid training had over 80 EPA NEPA/CAA Section 309 reviewers and subject matter experts from across the nation in attendance; more than 50 EPA staff attended in-person. There were multiple sessions that highlighted environmental justice-related topics, including a session educating staff on recent court decisions related to NEPA and environmental justice. The hybrid training also included several case studies on the EPA's review and comment on NEPA documents with complex environmental justice issues. OFA continues to host online trainings to accommodate NEPA/CAA 309 reviewers across the country. When possible, the EPA encourages and shares in-person training opportunities, such as conferences and workshops.

- **Executive Order 14096 report on CAA Section 309 reviews with comments relating to communities with EJ concerns (NEJAC Recommendation I.3.2)**: The NEJAC recommended that the EPA assess and audit NEPA processes and reviews across the EPA regions for consistency in analysis and comments with training content and best practices. This recommendation will be implemented in conjunction with the EPA's work that has been started to meet the requirements of [Executive Order 14096 Revitalizing Our Nation's Commitment to Environmental Justice](#) (April 26, 2022) Section 3.b.(ii). This section of EO 14096 requires the EPA to annually report to the Chair of the CEQ and White House Environmental Justice Interagency Council (IAC) on the EPA's NEPA/CAA Section 309 reviews regarding communities with environmental justice concerns and provide recommendations on legislative, regulatory or policy options to advance environmental justice in Federal decision-making. To prepare the annual report, the EPA's NEPA/CAA Section 309 review comment letters will be analyzed to identify which letters included comments relating to communities with environmental justice concerns and the types of comments the EPA presented in the letter for the recipient agency to consider. This information will form the foundation for the EPA's report and recommendations on legislative, regulatory, or policy options. The EPA will use the information to evaluate the types of comments made and areas where additional training may be necessary. This report will also help the EPA evaluate whether current training best practices are being applied in NEPA/CAA 309 review comment letters.
- **Guidelines to elevate projects to headquarters (NEJAC Recommendation I.1.10)**: The NEJAC recommended the EPA establish guidelines and pathways for NEPA reviewers to identify and elevate NEPA reviews to headquarters when cumulative burden concerns extend beyond the scope of individual NEPA analysis. In September 2023, the EPA updated the [Policy and Procedures for the Review of Major Federal Actions with Environmental Impacts](#). The original manual was published in 1984. The updated manual incorporates consideration of climate change, environmental justice concerns, and meaningful engagement in each step of EPA's review. The EPA evaluates cumulative impacts and highly impacted areas as part of NEPA/CAA 309 review. The updated manual describes the elevation process for projects that may result in a high degree of national controversy or have national significance, raise novel policy considerations or precedent, or are required to maintain or promote national consistency.
- **Developing a standardized EJ review process (NEJAC Recommendation 1.2.18)**: OFA is working with the internal EJ and NEPA workgroup and OEJECR to identify training topics and resources needed to develop a standardized EJ review process. Reviewers already utilize several resources and work with associate reviewers when evaluating whether EJ considerations have

been included and adequately addressed. A standardized review process and training resources will promote consistency across the regions in considering EJ in NEPA analyses to the extent feasible for projects that vary across sector and geography. Topics and resource needs will be identified by end of FY 24, and the standardized EJ review process will be developed and implemented in FY 25.

- **Cross-agency collaboration to support peer reviews and collaboration among NEPA reviewers (NEJAC Recommendation I.3.6):** OFA facilitates collaboration and knowledge-sharing among NEPA/CAA Section 309 reviewers on best practices on methods and emerging concerns through monthly NEPA/CAA Section 309 reviewer community of practice meetings, sharing example comment letters among regions, and the EJ and NEPA workgroup. OFA's Federal Agency Liaisons and sector workgroups facilitate dialogue among reviewers and maintain relationships with federal agency partners. Regarding cross-agency partnerships, the EPA participates in the monthly White House Environmental Justice Interagency Council NEPA and EJ Workgroup (IAC NEPA EJ Workgroup) hosted by the CEQ, which facilitates cross-agency dialogue on NEPA and EJ.

The EPA also identified that some NEJAC internal training recommendations may be implementable through other agency programs with expertise in those subject areas and practices. Some of the existing programs the EPA is tapping into include the following:

- **Diversity, equity, inclusion, and accessibility (DEIA) training and hiring initiatives (NEJAC Recommendations I.1.8, I.1.9, I.2.20):** The EPA is implementing measures to promote diversity, equity, inclusion and accessibility throughout the agency, including its NEPA program. The EPA actively conducts outreach to candidates from diverse backgrounds and offers asynchronous e-learning training for all staff on bias and inclusion. The training is mandatory for all supervisors and managers and optional for non-supervisory employees. The EPA delivered a course in Fiscal Year 2023 entitled "Unconscious Bias in Hiring Practices" that was attended by 94% of all the EPA managers and supervisors. OFA is sharing these courses with the NEPA/CAA Section 309 review community. Additionally, EPA's senior leadership have participated in sessions around understanding cultural differences within organizational teams and how psychological safety leads to more inclusive workplaces.
- **Title VI considerations in NEPA implementation (NEJAC Recommendation I.1.7):** The EPA recognizes that the robust enforcement of Title VI and other external civil rights laws plays a key role in ensuring just treatment and meaningful involvement for all. Title VI of the Civil Rights Act specifically prohibits discrimination, exclusion, or the denial of participation by recipients of Federal financial assistance on the basis of race, color, or national origin (including on the basis of limited English proficiency). Title VI and NEPA are discussed in separate provisions in Section 3 of Executive Order 14096, *Revitalizing Our Nation's Commitment to Environmental Justice for All* (April 2023). The Executive Order charges agencies "to ensure that all programs or activities receiving Federal Financial assistance" comply with Title VI, EO 14096 (3)(a)(x) and, also, to carry out environmental reviews under NEPA in a manner that advances environmental justice, EO 14096(3)(a)(ix). While information in environmental reviews conducted under NEPA can potentially inform civil rights compliance and enforcement efforts, Title VI gives rise to independent obligations from those of NEPA and other environmental statutes.

Implementation of External Training Recommendations

The NEJAC provided several recommendations on external training for communities and federal and state agencies. These recommendations include providing a comprehensive introduction to NEPA training for communities, guidance on public involvement, guidance on community engagement and commenting, and resources for supporting environmental justice in the NEPA process, such as compensation for community participation.

Regarding the NEJAC's recommendations for training communities, OEJECR is committed to investing in long-term community capacity-building and engagement in the NEPA process and will consider how best to incorporate NEJAC's recommendations through its work. OEJECR has provided past community-based training on NEPA in response to individual requests and is working to expand the frequency and scope of NEPA-related training opportunities for communities. The EPA looks forward to providing periodic updates to the NEJAC as OEJECR makes progress toward the programmatic development of community-based trainings focused on integrating environmental justice in the NEPA process.

Implementation Constraints and Opportunities

The EPA appreciates that the NEJAC's recommendations intend to push the boundaries of considering EJ in NEPA implementation and CAA Section 309 Reviews. To this end, the EPA recognizes constraints in our authorities that limit our ability to implement some of the NEJAC's recommendations as written. For example, the NEJAC recommended external reviewers to audit NEPA reviews either involving external experts or a community advisory board (NEJAC Recommendation I.3.5). However, any audits of federal work must be initiated by the relevant agency's Inspector General and the Government Accountability Office. The EPA is exploring opportunities to evaluate NEPA reviews through other actions, such as the annual assessment and report on EJ comments in NEPA/CAA Section 309 comment letters required by EO 14096.

The NEJAC also provided many internal and external training recommendations that apply to all federal and state agencies implementing NEPA. For example, the NEJAC's recommendations that ask the EPA to require a change in the content or format of an EIS, such as ensuring information in EIS documents and project summaries are in plain language (NEJAC Recommendation 1.2.11), are more appropriately implemented by CEQ in their oversight of NEPA regulations and guidance. The EPA's NEPA program regularly collaborates with CEQ and other federal agencies and will share the NEJAC's recommendations for other agencies to consider ways to advance integration of EJ into NEPA within their regulations, policies, and guidance. For example, OFA shared the NEJAC's recommendations with CEQ staff to consider when developing NEPA training for all federal agencies. The EPA will also collaborate with the IAC NEPA EJ Workgroup on the NEJAC's recommendation to update and promote the IAC's [Promising Practices for EJ Methodologies in NEPA Reviews](#) ("Promising Practices") document (NEJAC Recommendation I.1.6). Where possible, the EPA continues to evaluate how these recommendations can be translated into training for NEPA/CAA Section 309 reviewers and comments they provide during their NEPA/CAA Section 309 review of other federal agency NEPA documents.

Finally, some recommendations from the NEJAC request that the EPA include community members as reviewers for EJ analyses or consult them in the development of comments. Under the EPA's CAA Section 309 authority, the EPA conducts an independent technical review of a federal agency's NEPA document. As such, this authority is an inherently governmental function. The EPA NEPA/CAA 309

reviewers are encouraged as a best practice to stay situationally aware of issues that are likely to be of concern for proposed actions. The NEPA/CAA 309 reviewers generally defer to other EPA program offices with missions and authorities to engage with communities and may often receive situational awareness updates from these programs on key concerns or issues in the study area. Community members can publicly comment on an agency's EIS, and when the agency compiles those comments into the Final EIS response to comments, the NEPA/CAA 309 review staff can take those comments into consideration during their review. OFA is discussing with the OEJECR ways to engage communities interested in NEPA, implementing best practices in the EPA's own NEPA compliance, and connecting communities with other agencies whose projects might be affecting them.

Next Steps for Implementing NEJAC's NEPA Training Recommendations

The EPA appreciates the NEJAC's detailed recommendations for strengthening implementation of the EPA's NEPA program through training. In addition to continuing the implementation of actions described above, the EPA has identified several mechanisms to create long-term capacity and ensure ongoing implementation of these recommendations:

- The OFA Senior Environmental Justice and NEPA Coordinator is developing a NEPA and EJ training plan that captures the actions described in this report and incorporates additional NEJAC recommendations implementable within the EPA's NEPA program as the EPA determines and identifies resources for those actions to ensure ongoing progress and accountability.
- The EPA's NEPA Program is currently working to develop new EJ training resources for NEPA/CAA309 reviewers and communities.
- The EPA has dedicated resources to hire new EJ staff throughout all its programs and regions. Each region has hired or is hiring new EJ program staff who will support the NEPA/CAA Section 309 reviewers as EJ associate reviewers or subject matter experts, providing an additional review on EJ issues and ongoing contact with communities with EJ concerns in the region who might be affected by federal development projects under NEPA review.
- The EPA is closely collaborating with CEQ and other federal agencies on several upcoming changes to federal implementation of NEPA that will affect how EJ will be considered in NEPA documents. These include but are not limited to CEQ's finalization of the NEPA Phase 2 regulations. The [proposed rule](#) included several changes to incorporate environmental justice into the NEPA regulations. The EPA is also collaborating with many federal agencies as they develop guidance to implement E.O. 14096.
- As discussed above, as part of EO 14096, the EPA is tasked to assess and report annually to the CEQ and the IAC on whether each agency analyzes and avoids or mitigates disproportionate human health and environmental effects on communities with environmental justice concerns. When conducting these assessments, EPA intends to identify where NEJAC recommendations may be included in the report of recommendations for CEQ and federal agencies to consider strengthening implementation of NEPA regarding environmental justice.