

## Department of the Interior Departmental Manual

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**Series:** Environmental Quality Programs

**Part 525:** Environmental Justice

**Chapter 1:** Environmental Justice Implementation Policy

**Originating Office:** Office of Environmental Policy and Compliance

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### 525 DM 1

1.1 **Purpose.** This chapter sets forth the Department's policy and guidance for compliance with and implementation of Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," and the accompanying Presidential Memorandum, to integrate environmental justice considerations into policies, programs, and activities.

1.2 **Scope.** The responsibilities and requirements for implementing environmental justice requirements shall apply to all applicable Department of the Interior (DOI) bureaus/offices and their existing and future programs, policies, and activities. Bureaus/offices will implement environmental justice policies, guidance, and procedures that meet their individual missions and mandates.

1.3 **Authorities.**

- A. Title VI of the Civil Rights Act of 1964, July 2, 1964.
- B. National Environmental Policy Act of 1969, January 1, 1970.
- C. Executive Order 12898, *Environmental Justice for Low-Income and Minority Populations*, February 11, 1994.
- D. Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, August 11, 2000.
- E. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, November 06, 2000.
- F. Executive Order 13515, *Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs*, October 14, 2009.

#### 1.4 Related Policy and Guidance.

- A. Presidential Memorandum, *Executive Order for Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, February 11, 1994.
- B. Secretarial Memorandum, *Environmental Justice Policy*, August 17, 1994.  
Environmental Compliance Memorandum No. 95-3: *National Environmental Policy Act (NEPA) Responsibilities Under the Departmental Environmental Justice Policy*, May 30, 1995.
- C. Environmental Compliance Memorandum No. 97-2: *Departmental Responsibilities for Indian Trust Resources and Indian Sacred Sites on Federal Lands*, May 08, 1997.
- D. Council of Environmental Quality, *Environmental Justice: Guidance Under NEPA*, December 10, 1997.
- E. Department of the Interior Civil Rights Directive 2011-11, *Public Civil Rights Complaint Procedures*, March 14, 2011.
- F. Memorandum of Understanding on Environmental Justice and Executive Order 12898, August 4, 2011.
- G. Departmental Manual Chapter 515 DM 5: *Communication of Fish and Shellfish Consumption Advisories*, February 23, 2012.
- H. Departmental Manual Chapter 512 DM 4, *Department of the Interior Policy on Consultation with Indian Tribes and Alaska Native Corporations*, December 02, 2014.
- I. Departmental Manual Chapter 512 DM 5, *Procedures for Consultation with Indian Tribes*, December 02, 2014.
- J. Interagency Working Group on Environmental Justice, *Promising Practices for Environmental Justice Methodologies in NEPA Reviews*, March 2016.

**Definitions.** For purposes of this chapter, the following definitions shall apply:

- A. Environmental Justice Steering Committee. A DOI internal committee comprised of heads of bureaus/offices or their delegates, which evaluates and provides recommendations on DOI environmental justice policies, guidance, and activities to the Assistant Secretary – Policy, Management and Budget. The Environmental Justice Steering Committee also provides a forum for coordination among DOI’s bureaus/offices and with external agencies.

B. Department of the Interior's Environmental Justice Working Group (EJWG). A DOI internal working group comprised of bureau/office Environmental Justice Coordinators that develops DOI environmental justice policies, guidance and training, assists in the implementation of environmental justice principles at DOI, and provides a forum for bureau/office collaboration on environmental justice activities.

C. Interagency Working Group on Environmental Justice (EJ IWG). The EJ IWG is comprised of 17 Federal agencies and White House offices with standing committees and other committees established as necessary to carry out responsibilities outlined by Executive Order 12898 for interagency collaboration.

D. Public Participation. The meaningful involvement of the public in decision-making through open, ongoing, two-way communication, both formal and informal, between the Department and its stakeholders.

E. Responsible Official. A bureau/office employee who is delegated the authority to make and implement a decision on a proposed action and is often times responsible for ensuring compliance with the National Environmental Policy Act of 1969 (NEPA).

1.5 **Policy**. It is DOI policy to:

A. Identify and address, on its own or in collaboration with partners, environmental impacts that may result in disproportionately high and adverse human health or environmental effects on low-income or minority, including tribal, populations.

B. Ensure that all responsible officials are aware of provisions delineated by Executive Order 12898 and are able to identify and amend programs, policies and activities to comply with Executive Order 12898.

C. Ensure meaningful involvement of low-income, minority and tribal populations in Department program, policies, and activities through proper public participation, existing grant programs, training, and educational opportunities; and

D. Consider, where applicable, environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities, using the principles and processes outlined in NEPA, Title VI of the Civil Rights Act of 1964 (Title VI), and other Department, Bureau, and Office statutes, regulations and guidance related to environmental justice.

1.6 **Principles for Integration of Environmental Justice within DOI's Programs, Policies, and Activities**. The DOI and its bureaus/offices are to ensure that, to the greatest extent practicable, minority, low-income, and tribal populations do not experience disproportionately high and adverse effects from Departmental programs and activities. Bureaus/offices will comply with the following principles:

A. Environmental Justice Vision Statement and Goals. The DOI's Environmental Justice Vision and Goals are established in DOI's Environmental Justice Strategic Plan.

B. Determining Impact. When determining if a program, policy, or activity adversely impacts minority, low-income, or tribal populations, the following factors should be considered:

(1) Whether minority, low-income, or tribal populations have suffered or are at risk from suffering disproportionately adverse health or environmental effects or risks or exposure to environmental hazards, from DOI actions.

(2) Whether minority, low-income, or tribal populations have been denied an equal opportunity for meaningful involvement, in governmental decision making relating to the distribution of environmental benefits or burdens.

C. Continual Evaluation. Evaluate the effect of programs and activities on the environment and health of minority, low-income, and tribal populations on a continual basis. Bureaus/offices shall review and revise as necessary decision making processes to ensure consideration of the effects that decisions may have on minority, low-income, and tribal populations.

D. Future Activities. Address compliance with Executive Order 12898 in all appropriate future rulemaking activities, policy statements, proposals for legislation, and the development of any future guidance or procedures for programs, policies, or activities that may disproportionately and adversely affect human health or the environment.

E. Documentation. Develop proper documentation of any findings, determinations, and/or demonstration regarding potential disproportionate or adverse impacts to minority, low-income, or tribal populations. Such documentation may normally be handled in a NEPA document that is prepared for a program, policy, or activity. If not addressed in a NEPA document, environmental justice determinations should be documented in other appropriate planning or program documentation.

F. Data Collection. Collect, maintain, and analyze information on the race, color, national origin, and income level of persons adversely affected by programs, policies, and activities, to the extent permitted by existing authorities. Bureaus/offices shall avoid duplication of data collection and analysis.

G. Subsistence Consumption of Fish and Wildlife.

(1) Data. When practicable and appropriate, collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fishing, hunting or trapping for subsistence, when practicable and appropriate.

(2) Awareness. Consistent with Executive Order 12898 and 515 DM Communication of Fish and Shellfish Consumption Advisories, bureaus/offices shall, as appropriate and commensurate with their programs and activities, communicate with the public on risks of these consumption patterns. This may include publishing guidance reflecting information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife.

H. Outreach Activities. Identify and use opportunities to reach out to minority, low-income, and tribal populations and promote programs and activities that positively affect their health and environment, as appropriate to the bureau/office mission. Develop outreach activities, appropriate to the local, social, and cultural settings potentially being affected. These activities could include, but are not limited to:

(1) Developing an inventory or database consisting of community, professional, and technical resources to assist bureaus/offices in developing effective outreach strategies and activities.

(2) Identifying interagency responsibilities for areas with environmental justice concerns and working cooperatively within DOI as well as with other Federal agencies and State, tribal, and local units of government.

(3) Working closely and seeking assistance, services, community outreach collaboration, and products from minority-serving institutions, as well as other educational institutions to support DOI's outreach to low-income, minority, and tribal populations.

(4) Using appropriate and locally focused outreach activities, bureaus/offices will identify, seek out, and establish communication with low-income, minority, and tribal populations that may be disproportionately and adversely affected by their programs, policies, and activities. When appropriate, bureaus/offices should increase and enhance the current use of any or a combination of available public involvement materials, such as but not limited to: flyers, brochures, visualization, maps, drawings, renderings, photographs, presentations, fact sheets, charts and graphs, newsletters, and web sites; and

(5) Considering and complying with the Executive Order 13166 and the Department's LEP guidance, if applicable; if there is an impact on a Limited English proficiency (LEP) minority community.

I. Environmental Justice Strategic Plan.

(1) The DOI will maintain an Environmental Justice Strategic Plan that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority, low-income and tribal populations. The Environmental Justice Strategic Plan shall list goals and objectives on how the DOI will evaluate programs, policies, planning and public participation processes, enforcement, or rulemakings related to human health or the environment. The Environmental Justice Strategic Plan will:

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- (a) Promote enforcement of all health and environmental statutes in areas with minority populations, low-income, and tribal populations.
- (b) Ensure meaningful public participation.
- (c) Improve research and data collection relating to the health of and environment of minority populations, low-income, and tribal populations; and
- (d) Identify differential patterns of consumption of natural resources among minority populations, low-income, and tribal populations.

(2) As outlined in Executive Order 12898, DOI will evaluate and modify the DOI Environmental Justice Strategic Plan periodically to reflect current strategies and objectives to achieving environmental justice in DOI's policies, programs, and activities. Any updates to DOI's Environmental Justice Strategic Plan will go through a public review process. The DOI's Environmental Justice Strategic Plan shall also include, where appropriate, a timetable for undertaking identified revisions.

J. Annual Reporting. The DOI will publish a report on progress during the previous year in carrying out the DOI Environmental Justice Strategy and the Executive Order. The annual report will include at a minimum:

- (1) Information describing the how DOI is meeting the goals in the Environmental Justice Strategic Plan.
- (2) Identification of new and innovative approaches, methods, or examples of successful consideration of environmental justice; and
- (3) Revisions and updates to the DOI Environmental Justice Strategic Plan and DOI polices and guidance related to environmental justice, including those resulting from public comment.

K. Title VI of the Civil Rights Act of 1964 (Title VI) and Environmental Justice. Consistent with Executive Order 12898 and Title VI of the Civil Rights Act, DOI will monitor programs, policies, and activities to ensure that nondiscrimination and the prevention of disproportionately high and adverse effects are an integral part of its programs, policies, and activities. These requirements will be administered early in the development of the program, policy or activity. If discriminatory actions are identified corrective action is to be taken. Programs and activities will be administered so as to identify and avoid discrimination and avoid disproportionately high and adverse effects on minority populations by:

- (1) Identifying and evaluating environmental, public health, and interrelated social and economic effects resulting from programs, policies, and activities on minority populations.

(2) Proposing measures to avoid or minimize or otherwise mitigate disproportionately high and adverse environmental and public health effects, including considering alternatives.

(3) Eliciting public involvement opportunities, including soliciting input from potentially affected minority populations in considering alternatives.

(4) Providing notice to the public of their rights under Title VI of the Civil Rights Act of 1964 when federal financial assistance is awarded.

(5) Each bureau/office and each recipient of federal financial assistance must take reasonable steps to provide meaningful access for LEP individuals. Among the factors to be considered in determining what constitutes reasonable steps to ensure meaningful access are: (1) the number or proportion of LEP persons in the eligible service population; (2) the frequency with which LEP individuals come into contact with the program; (3) the importance of the service provided by the program; and, (4) the resources available to the recipient. Refer to the Departmental LEP Plan as needed.

L. National Environmental Policy Act (NEPA) and Environmental Justice. The DOI in all appropriate NEPA evaluation processes evaluates disproportionately high and adverse human health or environmental effects impacts to low-income, minority, and tribal populations and will at a minimum:

(1) Analyze proposed actions to determine if potential impacts to low-income, minority, and tribal populations, including human health, economic, and social effects, are disproportionately high and adverse.

(2) Whenever feasible and appropriate, identify mitigation measures that reduce significant and adverse environmental effects of proposed Federal actions on minority, low-income, and tribal populations.

(3) Provide opportunities for low-income, minority, and tribal populations, including through tribal consultation responsibilities under Executive Order 13175, to provide input early and throughout the NEPA process, including identifying potential effects and mitigation measures in consultation with the affected communities. Remove any barriers to participation of low-income, minority, and tribal populations by improving the accessibility of meetings, crucial documents, and notices; and

(4) When reviewing NEPA documents, ensure that the agency preparing NEPA analyses and documentation has appropriately analyzed environmental effects on minority, low-income, and tribal populations, including human health, social, and economic effects.

1.7 **Responsibilities.** It is an ongoing responsibility for all responsible officials within DOI to ensure that its programs, policies, and activities do not have disproportionately high and adverse effects on minority populations, low-income, and tribal populations and to ensure that potential

impacts are avoided, minimized or mitigated in a manner consistent with this Chapter and the Executive Order.

A. Deputy Secretary and Program Assistant Secretaries. The Deputy Secretary and Assistant Secretaries shall ensure that heads of bureaus/offices under their jurisdiction implement DOI's Environmental Justice Strategic Plan goals and strategies within their bureaus/offices and fully comply with the requirements of the Executive Order and this Chapter, as appropriate.

B. Assistant Secretary – Policy, Management and Budget. The Assistant Secretary – Policy, Management and Budget is responsible for policy and oversight of DOI's compliance with the Executive Order, this Chapter, the DOI's Environmental Justice Strategic Plan, and other DOI Environmental Justice polices and guidance. This responsibility includes:

(1) Ensuring implementation of DOI's environmental justice policy, guidance, and the Environmental Justice Strategic Plan, with the advice of the Environmental Justice Steering Committee.

(2) Reviewing and approving DOI's environmental justice policy, guidance, or changes to the Environmental Justice Strategic Plan, in consultation with the Environmental Justice Steering Committee.

(3) Approving DOI's Annual Environmental Justice Implementation reports.

(4) Coordinating environmental justice matters with the Executive Office of the President and other Federal agencies; and

(5) Representing DOI on the EJ IWG as the Senior Leadership contact.

C. Office of the Solicitor. The Office of the Solicitor is responsible for providing legal review and guidance in implementing and complying with Executive Order 12898 and this Departmental Chapter.

D. Office of Environmental Policy and Compliance. The Office of Environmental Policy and Compliance (OEPC) will be the lead office for advising and assisting the Assistant Secretary – Policy, Management and Budget in regard to the Department's implementation of environmental justice and Executive Order 12898. The OEPC responsibilities also include:

(1) Developing Departmental environmental justice policy and guidance or revising the Department's Environmental Justice Strategic Plan and other policy and guidance related to environmental justice policy, when warranted.

(2) Soliciting and considering the view(s) of all relevant DOI bureaus/offices, DOI's Environmental Justice Steering Committee, and DOI's Environmental Justice Working Group in the development of environmental justice policies or guidance and the DOI Environmental Justice Strategic Plan.



- (3) Preparing DOI's Annual Environmental Justice Implementation Report.
- (4) Appointing an Environmental Justice Coordinator to serve as the point of contact for the DOI's environmental justice program and activities.
- (5) Acting as a clearinghouse to collect and share information, federal law, policy, regulations, and field experience for the purpose of assisting bureaus/offices in integrating environmental justice into their programs and activities.
- (6) Providing assistance to bureaus/offices on implementation of environmental justice polices, guidance, regulations, and reviews; and
- (7) Ensuring that environmental justice is addressed in bureau/office updates to NEPA handbooks.
- (8) Representing the Department on the EJ IWG as the DOI's Senior Staff Contact and chairing DOI's Environmental Justice Steering Committee.

E. Office of Civil Rights. The Director of the Office of Civil Rights (OCR), as appropriate, shall:

- (1) Perform the duties as outlined in paragraph 1.7 F for Heads of Bureaus and Offices.
- (2) Coordinate any Title VI and environmental justice complaints filed with OCR with OEPC and the DOI's Environmental Justice Working Group; and
- (3) Perform the duties of Co-Chair for the DOI's Environmental Justice Steering Committee.

F. Heads of Bureaus/Offices. The head of each bureau/office, as appropriate, shall:

- (1) Ensure that the requirements of the Department's environmental justice strategy are incorporated into the bureau/office's programs and activities and ensure the bureau/office complies with Executive Order 12898 and this Chapter, as applicable.
- (2) Develop and maintain bureau/office specific environmental justice strategy and action plans.
- (3) Appoint a bureau/office Environmental Justice Coordinator to serve as the point of contact within the bureau/office on environmental justice matters and oversee the development of an environmental justice strategy and action plans; and as needed, also appoint regional environmental justice contacts to support field staff on implementation of environmental justice principles and coordinate with the public on environmental justice concerns.

(4) Ensure that the requirements of Executive Order 12898 and Departmental environmental justice policy and guidance are communicated at all necessary management levels and that the requirements are reflected in their relevant programs.

(5) Ensure that personnel involved in the decisionmaking processes and/or the implementation of DOI initiatives, programs, and activities are aware of environmental justice responsibilities and receive appropriate and available environmental justice training and where appropriate, include measures in employee performance appraisals plans.

(6) When requested, heads of bureaus/offices shall report annually to the Assistant Secretary – Policy, Management and Budget and the Environmental Justice Steering Committee on their practices and accomplishments in ensuring compliance with Executive Order 12898, this Chapter, DO’s Environmental Justice Strategic Plan, bureau/office Specific Action Plans, and other relevant environmental justice guidance and policies. The information will be submitted to OEPC for the DOI’s Annual Implementation Report.

(7) Provide support, technical assistance, and appoint employees with appropriate technical expertise to the Interagency Working Group on Environmental Justice subcommittees, as appropriate.

(8) Serve on DOI’s Environmental Justice Steering Committee (See paragraph 1.7H on the responsibilities of the Environmental Justice Steering Committee).

G. Bureau or Office Environmental Justice Coordinator. Bureaus/offices shall determine the roles and responsibilities of their Environmental Justice Coordinators. Bureau/Office Environmental Justice Coordinators will at a minimum:

(1) Represent their bureau/office on DOI’s Environmental Justice Working Group (see paragraph 1.7I on the responsibilities of the Environmental Justice Working Group).

(2) Inform the head of their bureau/office and senior leadership on implementation of the Executive Order and environmental justice at their bureau/office.

(3) Disseminate information on environmental justice to appropriate field-level staff; and

(4) Consolidate and coordinate information from the field on requests received from DOI’s Environmental Justice Coordinator, the Interagency Working Group on Environmental Justice, and any of the IWG’s subcommittees.

H. Environmental Justice Steering Committee.

(1) The Steering Committee serves in an advisory capacity to the Assistant Secretary – Policy, Management and Budget and the Director, OEPC on DOI’s compliance with Executive Order 12899 and effectiveness in addressing environmental justice issues.

(2) The Steering Committee consists of heads of bureaus/offices or their senior leadership designees of: the U.S. Fish and Wildlife Service; Bureau of Land Management; Bureau of Reclamation; National Park Service; the U.S. Geological Survey; Bureau of Ocean Energy Management; Bureau of Indian Affairs; Office of Surface Mining Reclamation and Enforcement; Office of Insular Affairs; OCR; and OEPC. Additional Bureaus and Offices may participate on the Steering Committee as warranted.

(3) The Steering Committee will meet at least once a year and will be Chaired by the Director, OEPC with the Director, OCR as Co-Chair. The Co-Chairs will establish the agenda. The DOI's Environmental Justice Coordinator will serve as support staff to the Steering Committee and arrange meetings, provide meeting materials, and perform recordkeeping.

(4) Responsibilities of the Steering Committee include:

(a) As needed, review DOI's Environmental Justice Strategic Plan, this Chapter, and other DOI policies and guidance related to environmental justice to determine if revisions are needed.

(b) Provide direction and guidance on potential deliverables and tasks that the DOI should complete and recommend what organization within DOI should undertake the work; this can often be done through periodic reviews of DOI's Environmental Justice Action Plan.

(c) Evaluate opportunities for coordination among bureaus/offices as well as partnerships with other federal agencies for evaluation of disproportionate impacts to minority, low-income, and tribal populations and opportunities to provided coordinated technical assistance and grants to those communities; and

(d) Offer support, advice, and recommendations to each bureau/office on its compliance with Executive Order 12898, DOI's Environmental Justice Strategic Plan, this Chapter, and other DOI guidance on environmental justice.

I. Department's Environmental Justice Working Group.

(1) The Working Group serves in an advisory capacity to the Environmental Justice Steering Committee and the Director of the Office of Environmental Policy and Compliance on the Department's compliance with Executive Order 12989 and the Department's effectiveness in addressing environmental justice issues.

(2) The Working Group consists of the Environmental Justice Coordinators from: the U.S. Fish and Wildlife Service; Bureau of Land Management; Bureau of Reclamation; National Park Service; U.S. Geological Survey; Bureau of Ocean Energy Management; Bureau of Indian Affairs; Office of Surface Mining Reclamation and Enforcement; and OEPC. The OCR and Office of Insular Affairs will also have a representative on the Working Group. Additional bureaus/offices may participate on the Working Group as needed.

(3) The Working Group will meet at least quarterly and will be supported by the DOI's Environmental Justice Coordinator, who will also serve as staff to the Working Group and arrange meetings, prepare agendas, and perform recordkeeping.

(4) The duties of the Working Group include the following:

(a) Assisting bureaus/offices with the integration of environmental justice into programs, policies, guidance and activities; and

(b) Assisting OEPC in the development of DOI-wide environmental justice policy and guidance.