

Draft Policy Statement
(68FR62642)

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

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USNRC

To: Secretary, U.S.Nuclear Regulatory Commission
Washington D.C. 20555-0001

February 5, 2004 (12:00PM)

From: Assemblymember William Colton, Chair, *William Colton*
NYS Assembly Legislative Commission on Solid Waste Management
Assemblymember Thomas P. DiNapoli, Chair, *Thomas P. DiNapoli*
NYS Assembly Environmental Conservation Committee
Assemblymember Richard L. Brodsky, Chair, *Richard L. Brodsky*
NYS Assembly Corporations, Authorities and Commission Committee
Assemblymember Ruben Diaz, Jr., Chair, *Ruben Diaz Jr.*
NYS Assembly Legislative Administrative Regulations Review Commission

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Re: Draft Policy Statement on the Treatment of Environmental Justice Matters in
NRC Regulatory and Licensing Actions (Federal Register, November 5, 2003, V.
689, No. 215; pp 62642-62645)

Date: February 5, 2004

We are responding the above proposed action relating to the treatment of environmental justice (EJ) matters in Nuclear Regulatory Commission (NRC) regulatory and licensing actions as required by the National Environmental Policy Act (NEPA).

We are strongly opposed to the proposed action, which in our opinion would considerably diminish attention to or ignore EJ issues in proceedings before the NRC. Specifically, we believe that the proposed draft policy reads like a manual to avoid addressing EJ issues relating to racial discrimination. We are astonished that the NRC would suggest that racial motivation and fairness or equity is not contemplated within the context of socioeconomic impacts to be addressed under NEPA.

Consideration of EJ issues, including racial factors, are critically important not only in the siting of nuclear facilities, but also for related activities such as facility decommissioning, waste processing and radioactive material/waste transport, and public notification of transport routes. Such activities often take place in or adjacent to minority and low-income communities, presenting the greatest risk to these populations.

It is also disappointing that the Commission did not take this opportunity to develop a comprehensive policy document that reflects the history and development of EJ policy within NRC. There are numerous guidance and policy documents both within NRC and elsewhere that reflect a policy attentive to consideration of racial and other social equity matters. Specifically, we recommend that the NRC develop a document that reflects the goals in the 1994 President's Executive Order:

- integration of EJ into NRC's NEPA activities;

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- continuing senior management involvement in EJ reviews;
- openness and clarity; and
- seeking and welcoming public participation.

Other guidance documents have been developed within the NRC that clearly define the process by which the NRC examines and addresses EJ issues in affected communities and populations. For example, the Office of Nuclear Reactor Regulation produced the following to guide agency consideration of EJ issues:

..staff should develop effective public participation strategies. The staff should acknowledge and seek to overcome linguistic, cultural, institutional, geographic, and other barriers to meaningful participation and should incorporate active outreach to affected groups.

Additionally the Council on Environmental Quality policy statement in an environmental guidance document articulates these goals:

The staff should recognize the interrelated cultural, social, occupational, historical or economic factors that may amplify the natural and physical environmental effects of the proposed agency action. These factors should include the physical sensitivity of the community or population to particular impacted; the effect of any disruption on the community structure associated with the proposed action; and the nature and degree of impact on the physical and social structure of the community.

RECOMMENDATIONS

We strongly recommend that NRC

1. develop a comprehensive environmental justice policy that includes analysis of the impacts and effects of proposed actions on low-income and minority populations and communities, building on the past ten years of EJ policy development and guidance; and
2. ensure that the draft policy is available for review by affected and interested parties before adoption of such policy.

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