



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 20, 1998

MEMORANDUM TO: Elizabeth Q. Ten Eyck, Director
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety
and Safeguards

FROM: John T. Greeves, Director
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

A handwritten signature in black ink, appearing to read "J. Greeves", written over the typed name of John T. Greeves.

SUBJECT: DWM REVIEW OF THE COUNCIL ON ENVIRONMENTAL QUALITY
ENVIRONMENTAL JUSTICE GUIDANCE DOCUMENT AND ITS
IMPACT ON NMSS POLICY AND PROCEDURES LETTER 1-50

At your request, we have reviewed the Council on Environmental Quality (CEQ) document "Environmental Guidance Under the National Environmental Policy Act" and assessed its impact on NMSS Policy and Procedures Letter 1-50, Revision 1, "Environmental Justice in NEPA Documents." We have also reviewed the Office of General Counsel (OGC) comments on the CEQ and NMSS guidance documents.

The NMSS guidance should be revised to reflect the final CEQ guidance. Anyone performing an environmental justice review will need to read the CEQ guidance document also, so we recommend attaching the CEQ guidance to the NMSS environmental justice Policy and Procedures Letter. At a minimum, the following CEQ guidance should be added to the NMSS guidance document:

- Display the minority and population data spatially to effectively visualize any environmental impacts (CEQ guidance, page 14).
- Encourage affected communities to develop and comment on possible alternatives to the proposed agency action (page 15).
- Document information in a non-technical plain language (page 16).
- Reflect the needs and preferences of the affected minority or low-income populations, to the extent practicable, in the mitigation measures (page 16).
- Address multiple and cumulative environmental exposures (pages 9 and 30).

CONTACT: Phyllis Sobel, NMSS
415-6714

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We agree with the OGC comments on the CEQ guidance. However, note that although OGC has stated that the CEQ guidance is not binding on NRC activities, CEQ and the U.S. Environmental Protection Agency (EPA) wish to review agencies' new or revised regulations, policies, and guidances to ensure that the CEQ guidance is fully implemented (CEQ guidance, page 19).

Based on our experiences in performing environmental justice reviews, we also have the following suggestions for the next revision to the NMSS environmental justice guidance:

- State the census block group as the appropriate census geographic area to consider. The U.S. Census Bureau does not report information on income for blocks, which are smaller geographic areas. Census tracts are too large to identify minority or low income communities.
- State that the area of assessment in rural areas should include at least several block groups. The NMSS procedure suggests an area of assessment with a radius of 4 miles in rural areas; however, based on the characteristics of the population near the site, it may be necessary to increase this radius.
- Develop guidance on the minimum number of minority or low-income persons or any other characteristics that define a "community" that would warrant an environmental justice concern. For example, if there is only a small percentage of persons who have identified themselves as American Indians, would the presence of an Indian reservation warrant an environmental justice concern?

Many of these issues are covered in the April 1998, EPA report "Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses."

If you have any questions, feel free to contact Phyllis Sobel of my staff.

Handwritten signature and date: 8/19

TICKET: N-98-400

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