



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 23, 1998

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NOTE TO: Claudia Craig
Generic Issues and Environmental Projects Branch
Division of Reactor Program Management, NRR

FROM: Robert C. Pierson, Chief
Special Projects Branch
Fuel Cycle Safety and
Safeguards, NMSS *Ma Yellowway for*

SUBJECT: COMMENTS ON NRR'S PROCEDURE FOR ENVIRONMENTAL JUSTICE
REVIEWS

Per your request, my staff has reviewed NRR's revised, "Procedure for Environmental Justice Reviews," (Procedure). As a basis for the review, they compared the Procedure to NMSS's draft Policy and Procedure Letter 1-50, "Environmental Justice in NEPA Documents," (Letter). Although the Procedure and Letter are not identical, only one major difference was identified.

NRR's revised Procedure states that, "...[NRR] staff should consider the potential for multiple or cumulative exposure to human health or environmental hazards in the affected population and historical patterns of exposure to environmental hazards, to the extent such information is reasonably available." The definition of cumulative exposure includes impacts from other area facilities not licensed by the NRC. Comparatively, NMSS's Letter does not address cumulative exposures.

Adding a requirement to consider cumulative exposures to the NMSS Letter would represent a change in NMSS policy on environmental justice, and in addition to affecting the resources required for an environmental justice review, may impact on-going litigation in the Spent Fuel Project Office. Therefore, we prefer not to address cumulative exposures as part of an environmental justice review.

Other comments on NRR's guidance are described below.

1. NRR has included Indian tribes with minority populations and low-income populations, e.g. "...whether minority populations, low-income populations, or Indian tribes...." Because NRR has included American Indians in the definition of a minority, has separately addressed the government-to-government relationship with the tribes, and has not defined when the existence of an Indian tribe within the affected area requires an environmental justice review independent of the minority or low-income population (see Step 5 of the Procedure), NRR should consider using, "...minority populations, low-income populations, ~~or Indian tribes....~~"
2. NRR may wish to consider applying the consideration of "communities" to minority as well as low-income populations.

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3. NRR has stated that an environmental justice review should be done if the percentage of households below the poverty level in an environmental impact site is *greater* than the low-income population in the general population or other appropriate unit of geographic analysis. Comparatively, the trigger for an environmental justice review for a minority population requires that the minority population percentage be *significantly greater*. We suggest that NRR make the requirements for a low-income population identical to the minority population, e.g., both *significantly greater*. We would also like to note, for your information, that NMSS has selected 20 percent as the minimum difference that triggers an environmental justice review between either the percentage of low-income or minority population and that of the comparison area.

We appreciate the opportunity to comment and contribute to a greater consistency in this area among NRC offices. If you have any questions, or need any additional information please contact Amy Bryce, of my staff, at 415-5848.

cc: E. Ten Eyck, NMSS
E. Brach, NMSS
R. Virgilio, OSP
S. Cornell, NMSS

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October 14, 1998

NOTE TO: John Greeves, DWM
Don Cool, IMNS
William Kane, SFPO

FROM: Elizabeth Q. Ten Eyck, FCSS *EQT 10/14/98*

SUBJECT: REVISION TO POLICY & PROCEDURE LETTER 1-50, "ENVIRONMENTAL JUSTICE IN NEPA DOCUMENTS"

Representatives from NRR, NMSS, OGC and SPO recently met to discuss differences between NRR's and NMSS's procedures for environmental justice. As a result of OGC staff comments, and to make NRR's and NMSS's guidance more consistent, we plan to revise Draft Policy and Procedure (P&P) Letter 1-50. Changes can be summarized as follows:

1. Language stating that cumulative and multiple impacts should be evaluated, where appropriate, has been incorporated into the revised Draft P&P Letter (See page 3).
2. An environmental justice review is now required when the percentage of low-income or minority population *significantly exceeds* that of the comparison area. Previously, an environmental justice review was required when the low-income or minority population was 20% greater than that of the comparison area. However, as a general guideline, 20% has been defined as significant for the purposes of this P&P Letter (See page 2).

Please notify Amy Bryce (x-5848) of any questions or comments by close of business October 22, 1998 so that we may forward the revised Draft P&P letter to OSP. OSP will be submitting the NMSS and NRR revised guidance to the Commission, and our plan is to finalize the guidance with division concurrence after the Commission provides comments.

Attachments: As Stated

cc (w/o attachments): Rosetta Virgillio,
Hampton Newsome