



U.S. NUCLEAR REGULATORY COMMISSION

ENVIRONMENTAL STANDARD REVIEW PLAN

2.5.4 ENVIRONMENTAL JUSTICE

REVIEW RESPONSIBILITIES

Primary— Organization responsible for the review of socioeconomic information

Secondary— None

I. AREAS OF REVIEW

This environmental standard review plan (ESRP) directs the staff's identification and description of low-income and minority populations that could be disproportionately impacted by construction, maintenance, or operation of the proposed project to the extent that such information can serve as the basis of an environmental impact statement (EIS) section on environmental justice. This review should provide input to other reviews dealing with evaluation of construction and operational impacts to these populations.

The scope of the review directed by this plan should include consideration and discussion of the methods that are used to identify and locate minority and low-income populations, the location and significance of any populations that are particularly sensitive, and any additional information pertaining to any identified disproportional preconditions or sensitivities of minority and low-income populations that could be impacted by construction, maintenance, or operation of the proposed project. The descriptions to be provided by this review should be of sufficient detail to permit subsequent staff assessment and evaluation of specific impacts as provided in ESRPs 4.4.3 and 5.8.3.

Review Interfaces

The reviewer for this ESRP should obtain input from and provide input to the reviewers for the following ESRPs, as indicated:

- ESRPs 2.5.1 and 2.5.2. Obtain input on demography and community characteristics for comparison with data on minority and low-income populations.

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NUREG-1555

USNRC ENVIRONMENTAL STANDARD REVIEW PLAN

This Environmental Standard Review Plan, NUREG-1555, has been prepared to establish guidance for the U.S. Nuclear Regulatory Commission staff responsible for environmental reviews for nuclear power plants. The Environmental Standard Review Plan is not a substitute for the NRC's regulations, and compliance with it is not required.

These documents are made available to the public as part of the Commission's policy to inform the nuclear industry and the general public of regulatory procedures and policies. Individual sections of NUREG-1555 will be revised periodically, as appropriate, to accommodate comments and to reflect new information and experience. Comments and suggestions for improvement will be considered and should be sent to the U.S. Nuclear Regulatory Commission, Office of New Reactors, Washington, D.C. 20555-0001.

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- ESRPs 2.2.1 through 2.5.3, 2.6 through 2.8.6, 4.1.1 through 4.6, 5.1.1 through 5.6.3, 7.1, and 7.3. Obtain input from these plans to establish environmental pathways of importance for identifying minority and low-income populations of concern.
- ESRP 4.4.3. Provide descriptions of those minority and low-income populations that could be disproportionately impacted by proposed project construction activities and the mechanisms by which disproportionate harm could occur. **If there are no such populations or mechanisms, the section should state that none were identified.**
- ESRP 5.8.3. Provide descriptions of those minority and low-income populations that could be disproportionately impacted by proposed project operation and the mechanisms by which disproportionate harm could occur. **If there are no such populations or mechanisms, the section should state that none were identified.**

The following review interface should also be conducted:

- Interface with Environmental Project Manager (EPM). Provide a notification to the EPM of the existence of any unusual circumstances that warrant an environmental justice review.

Data and Information Needs

The type of data and information needed will be affected by site- and station-specific factors, and the degree of detail should be modified according to the anticipated magnitude of the potential impacts. Because this plan is primarily for orientation and to provide a baseline, the information needed can usually be obtained from the applicant's environmental report. The following data or information should be obtained:

- a general description (with maps) of the location of all minority and low-income populations within the environmental impact area of each alternative site, including offsite areas that can expect significant environmental impact as a result of the proposed project construction or operation (from the ER, public contacts, and consultations with Federal, State, regional, local, and affected Native American tribal agencies). Demographic data would be available from NRC's Geographical, Environmental, & Siting Information System (GEN&SIS) or from the Bureau of the Census block data and **Topologically Integrated Geographic Encoding and Referencing (TIGER) geographic system files.**⁽¹⁾
- the comments of any organizations contacted by the applicant that locate and assess uniquely vulnerable minority and low-income communities located on or near the proposed station site (from the environmental report [ER], and comments from organizations contacted as a result of the scoping meetings and other contacts with the public). **As part of scoping, it is recommended that specific**

(1) **The TIGER system is accessible online at the Census Bureau TIGER website**
<http://www.census.gov/geo/www/tiger/>.

efforts be made to interview representatives of minority communities and other regional contacts (such as social service agencies) having specific knowledge about the locations, resource dependencies, customs and practices, and pre-existing health and socioeconomic conditions of minority and low-income populations in the region. This will assist the NRC in ensuring that minority and low-income communities, including transient populations, affected by the proposed action are not overlooked and in assessing the potential for significant impacts unique to those communities. The resources devoted to this specific outreach should be a matter of professional judgment and should be commensurate with the likelihood of disproportionate and adverse impacts on minority and low-income populations. Both the outreach process and results of the interviews, especially information about circumstances that could lead to disproportionate and adverse impacts from the proposed project, should be documented in the EIS.

- a more specific description of any unique minority or low-income communities within each environmental-impact area that are likely to be disproportionately affected by the proposed project construction or operation (from the ER, public comments, and consultation with Federal, State, regional, local, and affected Native American tribal agencies).
- a description of resources, customs and practices, circumstances of living (e.g., migrant labor), or preconditions (e.g., pre-existing health conditions or access to particular facilities or locations) of particular minority or low income populations that may make them likely to experience disproportionate environmental impacts from the proposed project. If there are no such populations or mechanisms, the section should describe the search process and state that none were identified.

II. ACCEPTANCE CRITERIA

The acceptance criteria for the review of environmental justice information are based on the relevant requirements of the following:

- 10 CFR 51.71(d) with respect to complying with environmental quality standards and requirements that have been imposed by Federal, State, regional, local, and affected Native American tribal agencies
- 10 CFR 52.18 with respect to reviewing applications for early site permits
- 10 CFR 52.81 with respect to reviewing applications for combined licenses
- 10 CFR 100.10 with respect to requirements that the site acceptance be based on the consideration of factors relating to the proposed reactor design and the characteristics peculiar to the site.

Regulatory positions and specific criteria necessary to meet the regulations identified above are as follows:

- NRC specific policy on treatment of environmental justice matters can be found in “Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions.” *Federal Register*, 69 FR 52040, August 24, 2004.
- Regulatory Guide 4.7, Rev. 2, *General Site Suitability for Nuclear Power Stations* (NRC 1998a), notes that environmental justice is one of the considerations on which site acceptance is based and provides specific information for making the determinations required.
- The Council on Environmental Quality provides guidance for addressing environmental justice, “Environmental Justice: Guidance Under the National Environmental Policy Act,” CEQ Guidance, December 10, 1997 (CEQ 1997). This guidance is not binding on the NRC staff, but should be followed as appropriate.
- Guidelines for specific information requirements for environmental justice determinations are described in *Procedural Guidance for Preparing Environmental Assessments and Considering Environmental Issues*, Appendix D to *Office of Nuclear Reactor Regulation (NRR) Office Instruction LIC-203*, NRC Office of Nuclear Reactor Regulation, Washington, D.C. (NRC 2004). NRR Office Office Instruction LIC-203 is revised periodically. Obtain the latest revision for current guidance on this subject.
- Commission Order CLI-02-20. In the Matter of Private Fuel Storage L.L.C. (Independent Spent Fuel Storage Installation). Docket No. 72-22-ISFSI. October 01, 2002 (NRC 2002).
- Commission Order CLI-98-3. In the Matter of Louisiana Energy Services (Claiborne Enrichment Center). Docket No. 70-3070-ML. April 3, 1998 (NRC 1998b).

Technical Rationale

The technical rationale for evaluating the applicant’s description of minority and low-income populations is discussed in the following paragraphs:

In accordance with 10 CFR 51.45, the applicant is required to submit in the ER information needed for evaluating these factors. Guidelines for specific information requirements for environmental justice determinations are described in Regulatory Guide 4.7 and Appendix D to *NRR Office Instruction LIC-203*. Information submitted by the applicant is adequate and meets the 10 CFR 51.45 and 10 CFR 51.71 requirements and interim NRR guidelines if it permits the identification of minority and low-income populations as addressed in most recent revision of the guidance.

As part of an environmental justice review, the reviewer should (1) alert the EPM of the existence of any unusual circumstances that warrant an environmental justice review in an EIS, (2) determine through comparative analysis whether a minority or low-income population exists that may be impacted (i.e., environmental impact site as outlined in Appendix D to *NRR Office Instruction LIC-203*), and (3) assess the degree to which the circumstances of each minority or low-income

population offer the potential of disproportionate adverse human health and environmental impacts and disproportionate benefits. Data in the ER should be adequate to make these determinations.

III. REVIEW PROCEDURES

The reviewer's analysis of minority and low-income populations should be closely linked with the impact-assessment review of environmental issues described by the ESRPs 2.2.1 through 2.5.3, 2.6 through 2.8.6, 4.1.1 through 4.6, 5.1.1 through 5.6, 7.1, and 7.3 to establish the environmental pathways by which minority and low-income households are most likely to be disproportionately affected, if any. For example, the reviewer should take the following steps:

- contact the lead staff responsible for reviews of these ESRPs
- contact local university departments of economics and sociology. These are particularly useful sources of expertise in the area of environmental justice, particularly those that are state repositories for Bureau of Census data. These offices are staffed with professionals who can assist the reviewer in analyzing the results of the applicant's surveys and investigations and can assist in the environmental review.
- contact the cognizant personnel in each affected state, for sites located on or near state boundaries, or where transmission line routes, access corridors, or offsite areas pass through more than one state.

IV. EVALUATION FINDINGS

The depth and extent of the input to the environmental statement will be governed by the extent and significance of the identified minority and low-income populations and by the nature and magnitude of the expected impacts of construction and operation. The following information should be included in the EIS:

- a general description of the location of minority and low-income populations within the region surrounding the site. This description should ordinarily be accompanied by two maps that highlight the location of minority and low-income populations, respectively. These maps would ordinarily be based on the most recent Census of Population, supplemented by other information if available.
- a description of minority and low-income populations of particular interest or unusual circumstances, such as minority communities exceptionally dependent on subsistence resources or identifiable in compact locations, such as a Native American settlement
- a brief description of any additional important cultural, economic, or human health facts that may result in unusually high environmental (including socioeconomic) impacts
- a brief description of the overall results and adequacy of any surveys (archival or field) that were conducted by the applicant.

The reviewer should identify and provide the locations of minority and low-income populations for each environmental impact site. The reviewer should verify that the applicant's data are adequate and consider them adequate if the following statements are true:

- The ER clearly describes any outreach efforts undertaken to identify minority and low-income populations and the results of those efforts in identifying such groups, their pre-existing social, economic, and health conditions and unique lifestyle and practices that could result in disproportionate impacts.
- Data in the ER adequately describe the locations and distances of minority and low-income communities and population concentrations in the vicinity of the facility to determine the percentages of minority and low-income populations within the environmental impact site and larger geographic area, and are in agreement with data obtained from other sources, when available.
- When applicable, data in the ER adequately describe the unique economic, social or human health circumstances and lifestyle and practices of minority and low-income communities (for example, subsistence activities or dependence on specific water supplies) that could result in disproportionate impacts from plant construction and site operations.
- Descriptions of the nature and extent of activities conducted at the site and in its vicinity, including the products and materials likely to be processed, stored, used, or transported, are adequate to permit identification of possible disproportionate hazards to minority and low-income populations under either routine operations or accident scenarios.

The commission has specifically ruled that failure by minority or low income individuals to receive benefits such as payments in compensation for environmental harm from a project does not in itself constitute an disproportionate adverse impact (NRC 2002).

V. IMPLEMENTATION

The method described in this ESRP will be used by the staff in evaluating conformance with regulations NRC requirements ,except in those cases in which the applicant proposes an acceptable alternative for complying with specified portions of the requirements.

VI. REFERENCES

10 CFR 51.45, "Environmental report."

10 CFR 51.71, "Draft environmental impact statement—contents."

10 CFR 52.18, "Standards for review of applications."

10 CFR 52.81, "Standards for review of applications."

10 CFR 100.10, “Factors to be considered when evaluating sites.”

69 FR 52040. August 24, 2004. “Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions.” Federal Register.

Council on Environmental Quality (CEQ). 1997. *Environmental Justice: Guidance Under the National Environmental Policy Act*. CEQ Guidance, December 10, 1997, Washington, D.C.

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority and Low-Income Populations.” *59 Federal Register*, 7629-7633.

U.S. Nuclear Regulatory Commission (NRC). 1998a. *General Site Suitability for Nuclear Power Stations*. Regulatory Guide 4.7, Rev. 2, Washington, D.C.

U.S. Nuclear Regulatory Commission (NRC). 1998b. Commission Order CLI-98-3. In the Matter of Louisiana Energy Services (Claiborne Enrichment Facility). Docket No. 70-3070-ML. April 3, 1998.

U.S. Nuclear Regulatory Commission (NRC). 2002. Commission Order CLI-02-20. In the Matter of Private Fuel Storage L.L.C. (Independent Spent Fuel Storage Installation). Docket No. 72-22-ISFSI. October 01, 2002.

U.S. Nuclear Regulatory Commission (NRC). 2004. *Procedural Guidance for Preparing Environmental Assessments and Considering Environmental Issues*. Office of Nuclear Reactor Regulation Instruction Change Notice, LIC-203, Revision 1, May 24, 2004, Appendix D – Environmental Justice Guidance and Flow Chart. Washington D.C.

PAPERWORK REDUCTION ACT STATEMENT

The information collections contained in the Environmental Standard Review Plan are covered by the requirements of 10 CFR Part 51, and were approved by the Office of Management and Budget, approval number 3150-0021.

PUBLIC PROTECTION NOTIFICATION

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.
