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Cc: Fetter, Allen; Stephen Burns; Josh Freed; Ryan Fitzpatrick
Subject: [External_Sender] Comment Submission from Third Way: Docket ID NRC-2021-0137
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Dear Mr. Suber:

Third Way is pleased to submit the attached comments on the systematic assessment of the NRC's approach to environmental justice (Docket ID NRC-2021-0137).

We appreciate this opportunity to comment on NRC's important efforts in reviewing this matter. Please do not hesitate to contact us if you have any questions or require clarifications on this comment.

Sincerely,
Alan Ahn

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October 29, 2021

Mr. Gregory F. Suber
Director, Environmental Justice Review Team
Office of the Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Comment from Third Way on the U.S. Nuclear Regulatory Commission’s Systematic Assessment for How the NRC Addresses Environmental Justice in Its Programs, Policies, and Activities (Docket ID NRC-2021-0137)

Dear Mr. Suber:

Third Way is pleased to submit this comment to the U.S. Nuclear Regulatory Commission (NRC) on the agency’s systematic assessment of how it addresses environmental justice issues in its programs, policies, and activities. We deeply appreciate the NRC’s decision to extend the comment period into October, and commend the agency for its good faith efforts to better incorporate environmental justice considerations into its strategic actions and planning.

First and foremost, Third Way would like to express its broad concurrence with comments already submitted by Good Energy Collective (GEC),¹ Nuclear Innovation Alliance (NIA),² and the Breakthrough Institute (BTI)³—particularly with respect to these organizations’ suggestions and recommendations on procedural justice and the obligation of enabling fair and equitable participation in the NRC’s stakeholder engagement processes. Third Way would like to support and reiterate specific procedural recommendations offered by GEC, which were also echoed by BTI and generally endorsed by NIA in their respective comments:

- Advance notice in the announcement of scoping meetings—a minimum of 3 weeks before the meeting
- Holding stakeholder meetings in both mornings and evenings, and on multiple days, in order to maximize access

¹ Good Energy Collective. “Good Energy Collective Comments on the U.S. Nuclear Regulatory Commission’s Systematic Assessment for How the NRC Addresses Environmental Justice in Its Programs, Policies, and Activities (Docket ID NRC-2021-0137).” Accessed October 27, 2021.
<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML21224A065>.

² Nuclear Innovation Alliance. “Nuclear Innovation Alliance Comments on the U.S. Nuclear Regulatory Commission’s Systematic Assessment for How the NRC Addresses Environmental Justice in Its Programs, Policies, and Activities (Docket ID NRC-2021-0137).” Accessed October 27, 2021.
<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML21267A492>.

³ The Breakthrough Institute. “Comment from the Breakthrough Institute to the U.S. Nuclear Regulatory Commission in response to the Systematic Assessment for How the NRC Addresses Environmental Justice in Its Programs, Policies, and Activities, (Docket ID NRC-2021-0137).” Accessed October 27, 2021.
<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML21293A098>.

- Increasing the staffing capacity of the NRC Office of Small Business and Civil Rights to support environmental justice initiatives
- Expanding efforts to create concise, plain language summaries of released documents as required by the Plain Writing Act of 2010

Third Way's second major objective in this comment is to emphasize and highlight the imperative of viewing and placing environmental justice issues in the appropriate contexts and backdrops. Environmental justice must be taken into account as a subset of broader efforts to improve stakeholder engagement, and the NRC has recently made notable progress in this regard, including significant improvements to the agency's informal means of engagement, as reflected in a 2021 revision to its public meeting policy.⁴ Advancing environmental justice in the NRC's decision-making must be complementary to initiatives seeking to enhance stakeholder relations and communications more broadly.

Although environmental justice issues have garnered wider recognition and prominence following statements and announcements made at the dawn of the current administration,⁵ the NRC has established policy frameworks addressing environmental justice, including its 2004 policy statement on environmental justice matters and a 2017 Tribal Policy Statement.⁶ To be sure, some of these policies will likely require updates to more effectively address the environmental justice challenges of today, including the central issue of implementing environmental justice considerations beyond National Environmental Policy Act (NEPA) reviews. For example, the NRC should consider whether the percentage of minority or disadvantaged populations and distance from a licensed facility in the existing Environmental Justice Policy Statement remain appropriate as triggers to initiate an environmental justice review. Nevertheless, it is fair and proper to acknowledge that NRC has historically grappled with these issues, and that parts of the existing framework can serve as a launching point for the development of a fully modernized environmental justice policy.

What is critically different now from when previous efforts to address environmental justice at the NRC took place is the Biden-Harris administration's commitment to a whole-of-government approach to this challenge. Prioritization of environmental justice issues across the federal government should, at the minimum, result in increased opportunities to interact on this subject with other federal entities and allow the NRC to derive lessons learned to inform its own environmental justice strategy. In addition, regarding outreach on nuclear energy topics, multiple agencies likely have different, but relevant, roles to play. Therefore, we recommend that an outcome of this systematic assessment is that the NRC more fully and thoughtfully engage in environmental justice communication and coordination with counterparts from other federal agencies.

We believe that enhanced interagency interactions on environmental justice would not only yield invaluable data points for the formation of the NRC's environmental justice

⁴ U.S. Nuclear Regulatory Commission, "Enhancing Participation in NRC Public Meetings," 86 Fed. Reg. 14964 (March 19, 2021).

⁵ The White House, "FACT SHEET: President Biden Takes Executive Actions to Tackle the Climate Crisis at Home and Abroad, Create Jobs, and Restore Scientific Integrity Across Federal Government." January 27, 2021. Accessed October 27, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/>.

⁶ U.S. Nuclear Regulatory Commission, "Tribal Policy Statement," 82 Fed. Reg. 2402 (Jan. 9, 2017).

policies, but should also fundamentally lead the agency towards a more holistic view of the diverse challenges that environmental justice communities face and a greater appreciation of the full complexity of environmental justice factors and considerations. In the end, unequal vulnerability to radiological and nuclear safety risks is merely a subset of the potential environmental injustices that certain communities may confront. For example, there is mounting evidence that climate change and criteria pollutants⁷ “disproportionately affect low-income neighborhoods and historically disadvantaged communities,”⁸ and it is increasingly clear that NRC decisions and actions can have an impact, whether directly or indirectly, on both climate and non-climate emissions.⁹

This is not to suggest that NRC actively address environmental justice issues beyond the scope of its statutory authority. However, we do underscore that the administration’s ultimate goal is to advance environmental justice on all fronts, and that the reality is that the NRC can affect the calculus of environmental justice at multiple points.

Consequently, it is highly advisable that the NRC reform and implement its environmental justice policies in close coordination with other agencies of relevance, and through this process, develop a comprehensive understanding of and perspective on environmental justice issues that are consistent with the greater objectives of the federal government. The NRC has crucial roles in the Biden-Harris administration’s mission to advance environmental justice across the board—an enormously important and noble aim at this pivotal moment of our country’s history.

We thank the NRC for the opportunity to submit a comment on this vital matter, especially at this stage of the comment period. We look forward to further conversations and discussions with the agency on environmental justice and other issues of great importance.

Sincerely,

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⁷ U.S. Environmental Protection Agency, “Criteria Air Pollutants.” Accessed October 27, 2021. <https://www.epa.gov/criteria-air-pollutants>.

⁸ Alan Ahn, “Importance of Preserving Existing Nuclear.” *Third Way*, September 10, 2021. Accessed October 27, 2021. <https://www.thirdway.org/memo/importance-of-preserving-existing-nuclear>.

⁹ Jackie Kempfer and Jackie Toth, “NRC: An Undercover Climate Agency.” *Third Way*, March 17, 2020. Accessed October 27, 2021. <https://www.thirdway.org/memo/nrc-an-undercover-climate-agency>.